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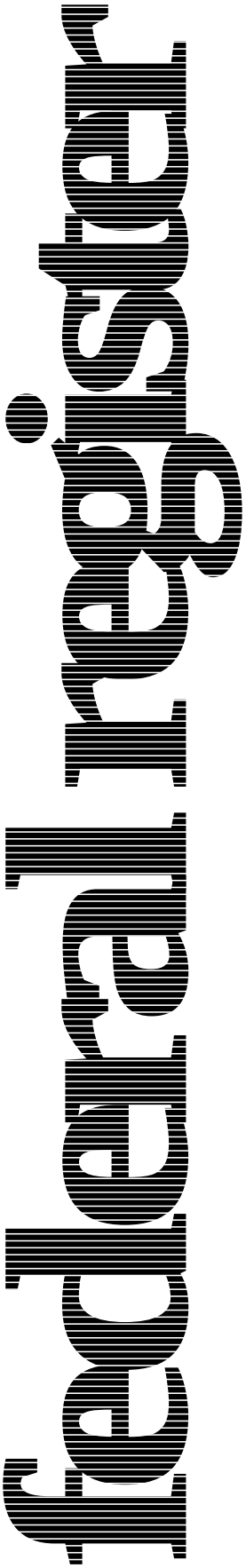

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Rules and Regulations

Federal Register
Vol. 60, No. 58
Monday, March 27, 1995

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 61

RIN 3150–AD33

Low-Level Waste Shipment Manifest Information and Reporting

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its regulations to improve low-level waste (LLW) manifest information and reporting. The amendments will: Improve the quality and uniformity of information contained in manifests that are required to control transfers of LLW that is ultimately intended for disposal at a land disposal facility; establish a set of forms that allows LLW to be tracked from its origin, and serves as a national Uniform Low-Level Radioactive Waste Manifest to meet NRC, Department of Transportation (DOT), and State and Compact information requirements; require LLW disposal site operators to electronically store container-specific manifest information; and require the disposal site operators to be capable of reporting the stored Uniform Manifest information on a computer-readable medium (e.g., magnetic disks or tapes).

EFFECTIVE DATE: This regulation becomes effective on March 1, 1998. However, licensees may implement the regulation at an earlier date, if a LLW disposal facility or its regulatory authority, to which shipped LLW is to be ultimately consigned, desires earlier implementation of these provisions.

ADDRESSES: Copies of documents relating to the proposed rule that was published on April 21, 1992 (57 FR 14500), or copies of this document may be examined and copied for a fee in the Commission's Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC 20555. Copies of NRC's Uniform Low-Level Radioactive Waste Manifest forms and the general instructions can be obtained from the Information and Records Management Branch, Mail Stop T–6 F33, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or telephone (301) 415–7230.

FOR FURTHER INFORMATION CONTACT: William R. Lahs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6756 or Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6196.

SUPPLEMENTARY INFORMATION:

I. Background

Purpose of the Revision

The purpose of this amendment to 10 CFR parts 20 and 61 is to modify the NRC's LLW shipment manifest information and reporting requirements to address the regulatory information needs for the transfer and disposal of LLW. The amended information defines the chemical, physical, and radiological properties of LLW that can be used to determine the expected performance of disposal facilities during operations and following closure. Thus, a principal objective of these amendments is to ensure that the information, initially reported by those generating the LLW, eventually received and recorded by the LLW disposal facility operator, and made available to the NRC or an Agreement State regulatory agency, is sufficiently comprehensive and consistent for its intended use. To enhance regulatory oversight and assist regulatory agencies and others in their assessments of normal operations or potential problems, such as questions about the adequacy of a particular disposal container, the amendment requires that the manifest information be stored electronically at the disposal facility operated under an NRC license and be capable of being conveyed by a computer-readable medium. The specific content and schedule for any reports containing the stored information will be established as a condition of the license or, if necessary, in a future rulemaking action.

The Commission recognizes that several entities have legitimate needs for LLW shipment information that should reasonably be included on a shipment manifest. In fact, Compacts,[1] unaffiliated States, and an increasing number of consignees, including disposal facility operators, have interests in waste shipment and disposal information that could be contained in a shipment manifest. To provide a degree of standardization in format and a baseline of manifest

[1] With the passage of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and the Low-Level Waste Policy Act of 1980, many States have organized into regional Compacts. These Compacts, together with unaffiliated States, are attempting to facilitate the development and operation of new disposal facilities.

information, the amendment requires the use of an NRC-developed Uniform Low-Level Radioactive Waste Manifest. This manifest, to which additional information can be added, responds to a request from the Host State Technical Coordinating Committee (TCC)[2] and the expressed views of several other parties having an interest in the information contained in the manifest. The uniform manifest meets DOT shipping paper requirements, contains the information required by the NRC, and provides a baseline set of information to address Compact, unaffiliated State, and consignee needs.

Low-Level Waste Shipment and Disposal

LLW may be shipped to a LLW disposal facility directly from a waste generator (potentially after the waste has been sent offsite for processing and has been returned) or may be shipped from a waste collector or processor. The collector is a licensee who typically handles prepackaged waste from hospitals, laboratories, or other licensees who generate only small volumes of waste. A shipment from a collector may have been temporarily stored at the collector's facility and, when eventually transported to a disposal facility, shipped with other containers of waste obtained from several generators.

Waste may be shipped from a waste processor, who has received radioactive material or waste from other licensees (generators, collectors, or other processors), and has repackaged the waste after possibly changing the waste's chemical or physical characteristics. For example, the waste processor may have compacted or incinerated the waste or segregated contaminated waste from non-contaminated material or waste. A single container of waste shipped from a waste processor may contain wastes from a number of different generators.

Companies generating, collecting, processing, or disposing of the waste are licensed either by the NRC or by an Agreement State.[3] Any step in the waste management chain (e.g., temporary storage by a collector, processing, or disposal) may have occurred in a State different from that in which the waste was generated. Thus, from a radiological safety standpoint, several regulatory entities may have an interest in particular waste shipments and disposals.

Each shipment of LLW is currently accompanied by a multi-page manifest that describes the shipment contents. These manifests, which include specifically formatted versions developed by the disposal facility operators, are frequently large multi-copy detailed documents that contain information required by the Commission's regulations in 10 CFR part 20,[4] DOT regulations in 49 CFR part 172, and State requirements imposed as conditions on disposal facility licensees. The manifests also include information required by the consignee who receives the LLW or radioactive material shipment.

Three disposal facilities are currently in operation. The Barnwell, South Carolina, disposal facility is operated by Chem-Nuclear Systems, Inc., the Richland, Washington, facility is operated by US Ecology, Inc., (both of these facilities are only accepting waste from their respective Compacts), and the Utah facility near Clive, Utah, is operated by Envirocare of Utah, Inc. Upon receipt of a shipment of LLW at these facilities, operators perform quality control checks on the shipment and the information in the manifest. Portions of the manifest information are transferred into their computer-based recordkeeping systems. The existing disposal facility operators have developed computer systems to store and process the voluminous manifest information because the operators receive thousands of shipment manifests each year.

Rulemaking History

In 1989, the NRC initiated this rulemaking to improve the quality and consistency in reporting of information that was contained on manifest documents. In that same year, a draft of the proposed rule was provided to the Agreement States for comment. As a result of this early interaction, the Commission became aware that a significant improvement to the current manifesting system would be the development of a national Uniform Low-Level Radioactive Waste Manifest. This was described in a letter to former Chairman Carr in May 1990 from the TCC and a corresponding letter from the LLW Forum. The NRC agreed that incorporation of a uniform manifest would provide a number of advantages and agreed to consider this concept. In November 1990, the TCC provided a draft uniform manifest for the NRC's consideration.

The NRC seriously considered the recommendations of the TCC in developing a draft uniform manifest. The NRC also consulted with the DOT on those parts of the proposed rule and uniform manifest that address DOT radioactive material transportation (shipping paper) requirements. Based on these interactions, a draft of the proposed rule and uniform manifest was developed and was sent to the Agreement States in March 1991. Subsequently, the proposed rule and uniform manifest forms were sent to DOT, and in July 1991, the NRC received DOT concurrence that the applicable parts of the uniform manifest met its requirements for shipping papers in 49 CFR part 172.

The proposed rule was published in the **Federal Register** on April 21, 1992 (57 FR 14500). The NRC received 40 comment letters on its proposed rule, and referenced forms and instructions. The issues raised by these commenters are discussed in Section III of this preamble. During the comment period, the LLW Forum members also received input from parties in their respective Compacts. As a result, the LLW Forum suggested that, to produce a more effective rule, the NRC should sponsor a public meeting to further discuss concerns raised by commenters, and thereby clarify the purpose of the rule. In response to this request, the NRC noticed a public meeting in the **Federal Register** on April 27, 1993 (58 FR 25578), and held the meeting on June 15, 1993, in Bethesda, Maryland. A transcript and detailed summary are available in the NRC Public Document Room.

The two most significant issues discussed at this meeting dealt with the format of the uniform manifest and how and when the manifest will be used. The formatting issue was a source of concern because the NRC changed the ''look and feel'' of the manifest from the style of the manifests developed by the LLW disposal facility operators and used for shipments consigned to these facilities. Furthermore, the NRC's formatting approach would require some data to be recorded twice on the same set of manifest forms. It was noted by NRC that the proposed changes were made to meet DOT requirements.

[2] NRC staff interactions with the Compacts and unaffiliated States has occurred principally with the Low-Level Radioactive Waste Forum and the Host State Technical Coordinating Committee (TCC). The TCC requested that the Commission consider the development of a uniform manifest in this rulemaking action, and on November 9, 1990, transmitted to NRC an example manifest with supporting material.

[3] Pursuant to the Atomic Energy Act of 1954, as amended, the Commission has the authority to relinquish part of its regulatory authority to a State, contingent upon making a determination that the State's regulatory program is compatible with the Commission's. Twenty-nine States, under formal agreements with the Commission, have assumed this regulatory responsibility. Negotiations with other States are underway.

[4] The Commission's LLW manifest and tracking requirements are codified in § 20.2006 and appendix F to 10 CFR part 20.

Although unable to satisfy individual commenters who prefer the existing manifest formats, the NRC staff has worked with DOT staff and has minimized any difference in the reporting burden for completing the uniform manifest as opposed to the burden imposed by existing manifests. As discussed in Section II of this preamble, before the compliance date specified in the rule, the NRC intends to facilitate trial uses of the manifest to ensure a common understanding of information reporting requirements.

The ''manifest use'' issue deals with industry concerns that the uniform manifest will be used to track radioactive material in addition to radioactive waste. The NRC manifest is designed to be used for the transfer of LLW, but the NRC recognizes industry's concerns that Compacts or unaffiliated States may require the NRC's or some other manifest format to be used for all shipments to processors or decontamination facility licensees. Existing NRC regulations require the manifesting of shipments of LLW to collectors and processors before eventual disposal. Nothing in these amendments changes that requirement, nor adds new requirements for shipments of material. Compacts or unaffiliated States may require additional reporting and this reporting could be accomplished through use of the NRC manifest format.

II. Implementation

Sections 20.2006, 61.12(n), and 61.80 (f) and (l) of the amendments to 10 CFR parts 20 and 61 in this final rule require NRC licensees to use the Uniform Manifest in appendix G beginning March 1, 1998. This late date is intended to allow existing LLW disposal facility licensees (all located in Agreement States), and their respective Agreement State regulators, to consider the length of time that the existing disposal facility will continue to operate under current rules before closure, and to make revisions to existing Agreement State regulations. For example, shippers to a facility that will close before March 1, 1998 need not use the new manifest unless required to do so by a disposal facility operator or its regulatory authority.

A few of the amendments in this final rule have been incorporated into the existing 10 CFR part 20 to be applicable at the stated future date in a manner that retains existing requirements in the interim. The majority of the new requirements imposed by this final rule have been included in a new appendix G to §§ 20.1001 through 20.2402.

NRC Agreement States each have regulations compatible with the existing 10 CFR part 20. Agreement States normally amend their regulations to preserve compatibility within three years after NRC issues final rules. In the Commission's view, it is desirable to publish this rule before any new LLW disposal site is licensed and operating. Even if Agreement State regulations are not yet final, LLW facility operators will have knowledge available on NRC's future manifesting requirements.

Before the Uniform Low-Level Radioactive Waste Manifest becomes mandatory, the NRC intends to initiate trial use of the manifest to reveal any practical problems in its use.

III. Summary of Public Comments and Changes From Proposed Rule

This section presents the principal issues raised in public comments on the proposed rule, the Uniform Low-Level Radioactive Waste Manifest forms, and the instructions that support the manifest. This section also contains the NRC response to the comments and a summary of the principal changes that were made to the proposed rule or to the Uniform Low-Level Radioactive Waste Manifest and its supporting instructions. This section has been arranged so that it corresponds to the structure of the proposed rule. However, a number of comments addressed specific aspects of the manifest forms or the supporting instructions. These comments are addressed following those that relate to specific provisions of the rule. The overall format involves a listing of the applicable rule section, any minor changes to that section, principal comments and issues, NRC's response, and the effect on the final rule section.

The NRC received 40 comment letters. Fourteen were from States or their representatives (i.e., LLW Forum and Compact Commissions). Eight were from LLW generators or their representatives. Six were from utilities or their representative. Four were from service industries (processors and collectors) or their representative. Four were from Federal agencies. Two were from environmental organizations. And two were from LLW disposal facility operators.

10 CFR Part 20

Section 20.2006 Transfer for Disposal and Manifests

In addition to the changes discussed in this section of the preamble, the final rule has been clarified by specifically stating that the manifesting requirements apply to any licensee who ships LLW to a licensed LLW land disposal facility, a waste collector, or a waste processor.

Comment: Four commenters believe that it is too early to promulgate a uniform manifest rule. These commenters pointed to the fact that this rulemaking would change 10 CFR part 20 before the new 10 CFR part 20 regulations have been implemented and argued that the Compacts and States are unsure, at this time, as to what information they need. One commenter stated that the uniform manifest would not be accepted by State jurisdictions. Other commenters believe that, to facilitate development of Compact or State LLW tracking systems, the rulemaking should be finalized without delay.

Response: These comments on 10 CFR part 20 have been overtaken by the fact that all licensees were required to implement the new standards for protection against radiation in 10 CFR part 20 by January 1, 1994. The NRC sees no other reason to delay promulgation of this rule. From NRC's perspective, the schedule for this rule is, in large measure, driven by the need to gain access to the waste form, content, and disposal container information that is expected to be useful in assessing the performance of LLW disposal sites. Although a significant fraction of this information is currently collected by the current disposal facility operators, the compatibility and completeness of the existing data was of concern. The NRC concluded that these drawbacks could be accentuated if each future LLW disposal site collected, stored, and reported data in an uncoordinated manner. Thus, the timing for implementation of the rule has considered the proposed schedules under which new LLW disposal sites are being developed.

Other parties also have critical interests in manifest information. The DOT imposes regulations applying to shipping papers for hazardous materials. The Compacts and States, given the responsibility for developing LLW disposal sites under provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA), are interested in tracking LLW. Publication of the rule, at this time, provides these parties the information requirements needed to effectively develop their tracking systems and allows all parties involved in LLW shipments to become familiar with the presentation of shipping paper information that has been found acceptable by DOT.

Finally, because all the existing disposal sites are located in Agreement

States, these States must be provided sufficient time to work closely with the NRC and their licensees, especially existing LLW disposal facility operators, to implement this rule. To facilitate a smooth transition, the rule allows approximately 3 years from publication for Agreement States to implement their regulations. The rule also allows implementation prior to March 1, 1998 for any LLW disposal facilities that are operating prior to this date.

On the question of manifest acceptability by State jurisdictions, the NRC is not aware of any States that would not accept the manifest. The NRC notes that State and Compact groups have been in the forefront in suggesting the need for a uniform manifest and that the manifest has been approved by the DOT as meeting that agency's shipping paper requirements.

Final rule: § 20.2006(b) has been divided into two paragraphs. The first, (b)(1), is the existing § 20.2006(b). The second, (b)(2), reflects the new § 20.2006(b), but with added phrases reflecting the implementation provisions discussed in Section II, affecting the change from appendix F to appendix G. A clarifying paragraph, § 20.2006(a)(2), has also been added to describe implementation provisions, and a consistent clarifying phrase has been added to §§ 20.2006 (c) and (d).

Comment: Several commenters questioned whether implementation of the rule would provide any significant public health and safety benefit. These commenters stated that the rule identifies no current problems or concerns that could jeopardize the safe transportation or disposal of LLW. Two commenters supported the rule citing the need for source term and waste characteristic information. One commenter believes that the increased cost of documentation and recordkeeping is outweighed by the need to have reliable up-to-date information.

Response: The benefit of the rule is tied to: (1) Being able to develop specific data needed for assessments to demonstrate compliance with the performance objectives in 10 CFR part 61, specifically pertaining to protection of the general population from the releases of radioactivity at LLW disposal facilities, and to the understanding of potential wastes requiring special consideration, (2) the improvement in quality and uniformity of data collected and reported that could affect the aforementioned performance estimates, and (3) efficiencies in data recovery and use when addressing health and safety issues. Benefits may also occur in transportation-related emergency response situations from the use of a standard DOT shipping paper format and a reduction in the manifest paperwork needed to accompany the LLW shipments. Finally, by providing information that the States and Compacts believe necessary to carry out their responsibilities, a consistency in view of LLW is fostered that could minimize the potential creation of waste that cannot be disposed of (''orphan waste'') and assist in efficient and safe LLW management nationwide.

Final rule: No change.

Comment: Three commenters questioned whether the rule explicitly or implicitly expands the authority of LLW Compacts to regulate the shipment of radioactive materials that are not LLW.

Response: The rule does not change the intent of the regulations as expressed in § 20.311 of the expired provisions of part 20 or in appendix F to part 20. In both cases, the (waste) generating licensees who transfer waste to a licensed waste processor are subject to manifesting requirements. In this context, the rule provides definitions for ''waste generator,'' ''waste collector,'' and ''waste processor.'' The rule is not viewed as having any impact on the Compact or State authorities defined in the LLRWPAA. In fact, the NRC believes that the manifesting required by the rule should provide most information sought by State or Compact LLW tracking systems. See comment and response under appendix F, I. Manifest—Introduction and Definitions sections, for related discussion.

Final rule: No change.

Appendix F to Sections 20.1001 Through 20.2401 (Appendix G to Sections 20.1001 Through 20.2402 in this Final Rule)

I. Manifest—Introduction

In addition to the changes discussed in this section of the preamble, corrections have been made to the Title number referred to in citing Environmental Protection Agency (EPA) regulations and the definition of ''EPA identification number.'' The reference to Xerox copies has been deleted because the word ''photocopy'' is sufficient. In response to a point made by some commenters, the first paragraph under ''I. Manifest'' has been amended to be consistent with the remainder of the rule in stating that the rule applies only to shipments of LLW intended for ultimate disposal at a licensed LLW land disposal facility.

Comment: Five commenters and several attendees at the June 15, 1993, public meeting questioned the need for licensees to be required to complete the uniform manifest for shipments to waste processors, especially in those cases where the processor could be making significant changes to the volume, form, activity, or radionuclide concentration. These commenters also questioned whether shipments of LLW from processors or decontamination facilities back to the original ''generators'' for interim storage should be manifested using Form 541. One commenter questioned whether the intent of the rule was to require manifesting of ''materials'' (e.g., laundry from a nuclear facility). Another commenter stated that the rule is confusing with regard to when various forms must be used.

Response: The five commenters are correct in stating that the primary interest of NRC (i.e., for performance assessment purposes) is on the characteristics of LLW that is being shipped for disposal. However, the manifesting requirement for those shipping LLW to processors originated with the 10 CFR part 61 rulemaking. One of the reasons for this requirement was to develop a representative data base unskewed by large volumes of LLW that may pass through waste processors and collectors. Moreover, for waste being shipped to a processor for compaction, the information provided by the waste generator would be the basis for completing and certifying the manifest that the processor must complete when the LLW is forwarded for eventual disposal at a land disposal facility. In considering shipments to incinerators, the NRC agrees that NRC's need for incoming manifest information is not relevant to the gathering of information useful to conduct performance assessments but is directed at waste tracking. The NRC believes, based on its interactions with the States and Compacts, that these parties are primarily interested in large volume or high activity LLW for which they are responsible under the LLRWPAA. Thus, NRC believes the shipments to an ''incinerator'' processor should not generally be subject to the manifesting provisions of this rule and that any resultant contaminated ash should be considered residual waste assigned to the processor. If this interpretation is agreed to by the appropriate State or Compact authorities, manifesting of material sent to incinerators is not required. The case of shipments of laundry from a nuclear facility is more clear-cut. The incoming laundry shipment is not considered waste and would not be required by NRC to be manifested.

For shipments of LLW being shipped to and subsequently returned by a

processor to the original ''waste generator'' or ''generator,'' the NRC believes that, under these special circumstances, completion of the uniform manifest is not necessary to meet NRC needs and this exception has been included in the rule. The potential need for NRC to track LLW in storage may result in a reexamination of this exemption. Licensees should be aware that, because the shipments in question are LLW, the States or Compacts may require completion of manifest documentation. Note also, that if the processor ships processed LLW to a licensee other than the original generator, manifesting under this rule is required.

Final rule: A sentence has been added to the introductory paragraph of appendix G which states that ''Licensees are not required by NRC to comply with the manifesting requirements of this part when they ship: (a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility, (b) LLW that is being returned to the licensee who is the 'waste generator' or 'generator,' as defined in this part, or (c) radioactively contaminated material to a 'waste processor' that becomes the processor's 'residual waste'.''

Comment: Two commenters noted that NRC will allow the use of substitute forms if they are equivalent in all respects (content, size, shading, color, etc.). They noted that the requirement for equivalent color and shading will create problems for computer generated forms, and suggested the following definition, ''* * * Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect of form, content and location of information.''

Response: The NRC agrees that the requirement that any substitute forms use the same color and shading of the NRC Forms would likely preclude the use of licensee generated forms.

Final rule: The NRC is modifying the definition in a manner consistent with the commenter's proposal. The appropriate part of the definition will read, ''* * * Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information.''

I. Manifest—Definitions

In addition to the changes discussed in this section of the preamble, definitions have been added for the terms: ''consignee'' and ''computer-readable medium.'' The definitions for ''shipper'' and ''decontamination facility'' have been expanded to provide the basis for deleting the ''Note'' in the originally proposed definition of ''waste generator.''

Comment: Two commenters stated that the definitions of ''decontamination facility,'' ''waste generator,'' and ''waste processor'' were muddled in that a clear distinction between these terms may not be evident. One commenter suggested that, if waste is created from a service industry (e.g., decontamination facilities), the service organization should be considered the generator of the waste.

Response: The three definitions were considered necessary to allow the Compacts/States the greatest flexibility in carrying out their authorities to track low-level waste generated, processed, decontaminated or disposed of within their Compact/State. This includes the possibility that, as the commenters suggested, wastes created from certain service organizations in the treatment of contaminated material could be attributed to the service organization.

The definition of ''decontamination facility'' is included in the rule to ensure that these facilities complete the uniform manifest (at a minimum, Forms 540 and 541) if they were shipping waste to a licensed land disposal facility. The Compacts or States must decide whether the radioactivity resulting from the processes undertaken at these facilities must be assigned to originating generators. The rule includes a definition of ''residual waste,'' that provides a basis for this waste to be assigned to the decontamination facility for waste tracking purposes. This approach may also apply to certain processors. The rule would allow the Compacts and States to determine what constitutes ''residual waste,'' and as a result, if the decontamination facility or processor can be considered a ''waste generator'' and, therefore, need not complete Form 542 of the manifest. This rule does not require shippers of *radioactive materials* to either decontamination facilities or waste processors to comply with the rule's manifesting requirements. The rule does apply to shippers of *radioactive waste* to waste processors. In the context of the rule, decontamination facilities would not be expected to be consignees for shipments of LLW.

Final rule: A phrase has been added to the definition of ''decontamination facility,'' which states that, ''* * *, and for purposes of this Part, is not considered to be a consignee for LLW shipments.''

Comment: One commenter stated that the distinction between the terms ''generator'' and ''waste generator'' was confusing and, in view of the definition of ''residual waste,'' was not needed. Other commenters stated that the phrase, ''* * * for which no further use is foreseen * * *,'' used in the definition of ''waste generator,'' is inappropriate. Three commenters and attendees at the June 15, 1993, public meeting suggested that the rule focus on the entity to whom LLW or radioactive material is being shipped—suggesting one manifest for shipments to a LLW disposal site and a different manifest for shipments to material/waste processors. One commenter stated that the starting and ending points for the paper trail for material/waste shipments were unclear.

Response: All three terms, ''generator,'' ''waste generator,'' and ''residual waste'' are needed. Under the approach followed in the rule, the definition of the term ''generator'' is included to ensure that information is collected on Forms 541 and 542 of the manifest that will allow Compacts and States to demonstrate that the wastes disposed of at their LLW sites is that for which they are responsible under the LLRWPAA. In the rule, the term ''waste generator'' is used to define a category of licensees who must use the uniform manifest. The term ''generator'' defines the licensee to whom specific LLW must be attributed in the context of the LLRWPAA. A ''waste processor'' (including ''decontamination facilities'') must reasonably attempt to assign the waste shipped from the processor's facility to the originating ''generator.'' The rule provides an exception to this accountability provision if the waste being shipped by the processor can be categorized as ''residual waste''; that is, waste originating as a result of processing or decontamination activities performed for others, but which cannot be easily categorized into distinct batches attributable to specific ''generators.'' Conceptually, the definition of ''residual waste'' would be used for small volumes of waste containing minimal levels of radioactivity. The NRC has encouraged the Compacts and States to develop a common definition of what constitutes ''residual waste.'' The rule would not be affected if different Compacts or States impose a different definition. However, ''waste processor'' or ''decontamination facility'' licensees could be required to complete Form 542 of the uniform manifest.

The phrase ''* * * for which no further use is foreseen * * *,'' was included in the definition of ''waste generator'' to provide one basis upon

which a licensee can decide if a shipment to a waste processor is considered a LLW shipment that must be manifested under the provisions of this rule. The intent of the rule is to require manifesting if the licensee considers the entire shipment to be LLW.

The commenter's suggestion for a ''two-manifest'' approach, although theoretically feasible, was considered a less justifiable regulatory approach, because it would impose manifesting requirements for certain material shipments. The NRC did not consider it necessary to require manifesting of material shipments sent for decontamination or sorting, or coupled to energy recovery, because the waste processor would be manifesting the subsequent outgoing LLW shipment. In the outgoing shipment from the waste processor, the assignment of the radioactivity on the manifest, completed by the waste processor, would be to either a particular ''generator'' or if appropriate, to the waste processor, as ''residual waste.''

The starting and ending points for the paper trail may not be completely clear because different Compact/States may impose different requirements based on their authorities. The approach taken in the rule was to provide a manifesting system that could accommodate these differences.

Final rule: The phraseology of the ''waste generator'' definition has been changed to clarify that, under this definition, the shipping licensee, absent any regulation or guidance to the contrary, must decide if the shipment constitutes a LLW shipment.

Comment: One commenter suggested that the definition of ''waste type'' be expanded to cover ''chemical'' description.

Response: The chemical description is reported separately for each waste type and therefore, the definition of ''waste type'' does not need to be expanded. The major purpose of defining ''waste type'' in the rule is to identify the detail needed when describing the contents of containers including two or more specific waste types as further discussed in the response to comments under ''Disposal Container Information.''

Final rule: No change.

A. General Information

Corrections have been made in appendix G, paragraph A.2 to change ''identifier'' to ''identifiers'' and appendix G, paragraph A.3 to properly refer to the EPA identification number for the carrier transporting LLW.

Comment: Six commenters expressed views on whether the Uniform Manifest and its supporting instructions should be incorporated in the rule. Some commenters stated that because completion of the manifest forms is required by the rule, the forms should be incorporated in the rule. This action was suggested to facilitate comments on the forms and to allow Agreement States appropriate opportunity for their involvement and sufficient time to make any changes that NRC may make to the forms over time. One commenter stated that the failure to include the manifest forms in the rule could be considered arbitrary. Three commenters argued that the Manifest and its supporting instructions should not be a part of the regulation. With this approach, the NRC would retain the flexibility to make non-substantive changes to the Forms or instructions without a rulemaking action.

Response: Although the uniform manifest forms are not physically a part of the rule, their availability was noticed and they were widely distributed. The advantage of separating the forms from the rule is that minor changes to the forms, such as additions to the container description, waste descriptor, or sorption, solidification, and stabilization media codes that appear at the bottom of Form 541, can be made without the need for a rulemaking action or the replacement of the manifest forms then in use. Minor changes, or any changes in the format or instructions for the uniform manifest, would be treated as NRC currently treats regulatory guides. Regulatory guides are issued for public comment and these comments are analyzed before the guide is issued in final form. As one commenter presumed, the minor revision and changes to the manifest or instructions would be tracked (e.g., a form revision number). Any significant changes to the uniform manifest forms, such as a request for further basic information on the waste or disposal container, would be accomplished through a rulemaking.

The NRC recognizes the importance of input from those most immediately affected by the requirement to complete the uniform manifest. It was principally this reason that led to the NRC holding the public meeting on June 15, 1993. Thus, the NRC does not consider separation of the Forms and instructions from the rule arbitrary.

Final rule: No change.

Comment: One commenter suggested that the rule should require the generators to provide the ''generator type'' code called for in item 5 of Form 540.

Response: Because this information would be obtainable through the generator ID or user permit number, the need to complete the block in question was not sufficiently important for the NRC to require its completion. The States, Compacts, or the consignee could require this information to be completed.

Final rule: No change.

B. Shipment Information

Comment: One commenter questioned the need to report small quantities of Tc-99 on manifests while another commenter was unclear on why certain nuclides were singled out in reporting source and special nuclear material. One commenter stated that the reporting of § 20.311 radionuclide LLD values and the delisting criteria, as described in the instructions for uniform manifest completion, should be incorporated in the rule.

Response: The need to report Tc-99 represents an existing manifest requirement in § 20.2006 and appendix F to §§ 20.1001 through 20.2402 and was addressed in the 10 CFR part 61 rulemaking; that is, the nuclide's long half-life, mobility, and influence on performance assessment results. The singling out of specific nuclides for source and special nuclear material was done to emphasize that it was the weight of these nuclides that was being requested and not the weight of any compound or media with or within which these nuclides may be associated or contained. The instructions for the uniform manifest specify the minimal levels of activity that must be reported on the manifest and, without a specific reason to include this information in the rule, this information continues to be addressed in the instructions.

Final rule: No change.

C. Disposal Container [and Waste] Information

In addition to the changes discussed in this section of the preamble, the heading has been broadened to more precisely reflect the general types of information being requested and the listing of items has been reorganized and clarified to describe the variations in required information that are dependent on whether: (1) The waste is containerized or uncontainerized, and (2) the consignee for the waste is a licensed low-level waste disposal facility. Furthermore, a clarification has been made in Appendix G, paragraph I.C.4 to indicate that the gross weight of the waste and disposal container is required. The NRC requirement to report contamination levels on the surface of disposal containers has been deleted to correct a typographical error. This item still appears on the manifest

as a non-Federal informational need because it is required by one of the current disposal facility operators for operational safety reasons.

Comment: One commenter suggested that the level of reporting required in the current appendix G, paragraph I.C.9 (previously appendix F, paragraph I.C.8) did not go far enough and that Class A sorbed or solidified waste should be reported in a similar manner to Class B and C wastes. Other commenters stated that shippers of Class A waste were being unduly impacted. One commenter stated that it was impractical and/or not meaningful to provide separate isotopic breakdowns for all mixtures of Class B and C wastes. Another commenter believes the requirements for nuclide reporting of Class A versus B and C wastes was unclear.

Response: The principal purpose of requiring wastes to be described by individual waste descriptors is related to the capability of performance assessment methodologies to distinguish between certain types of wastes in terms of their public health significance. The commenter who indicated that the proposed rule was too broad in its requirement to distinguish between all Class B and C waste types is correct. The data likely to have the greatest significance are those associated with waste types from which radioactivity releases could reasonably be limited. The ability to distinguish differing radioactivity release rates from Class A wastes could also be significant to site performance assessments.

Final rule: Appendix G, paragraph I.C.9 (previously appendix F, paragraph I.C.8) has been modified to delete the phrase at the end of the proposed paragraph which stated, ''if the media is claimed to meet stability requirements in 10 CFR 61.56(b)''; and paragraph I.C.10 (second sentence) has been modified to read, ''For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported.''

Comment: One commenter asked that the need to identify each drum (disposal container) of waste be reconsidered because of the impact on small generators. Another commenter noted that the proposed disposal container for most new disposal sites is a concrete overpack and stated that, although each container of each shipment must be indicated on the manifest, tracking of the waste by overpack is more relevant. One commenter believes that accountability necessitated a drum/container number.

Response: The need for disposal container information is not only to provide data that could be useful for performance assessment purposes but is required by DOT if the disposal container and transport package are identical. Identification of each drum would provide a basis for associating a waste generator with specific waste in a shipment. The suggestion regarding tracking of waste by overpack at the disposal site is allowed under the provisions of this rule if the container description code indicates, through use of the symbol ''-OP,'' that disposal in an approved structural overpack is required.

Final rule: No change.

D. Uncontainerized Waste Information

Final rule: The introductory language of appendix G, paragraph I.D. has been made consistent with the revised paragraph I.C, and paragraph I.D.1 has been modified to require that information on the approximate volume, as well as the weight of the uncontainerized waste, be provided on the manifest.

E. Multi-Generator Disposal Container Information

Final rule: The wording of appendix G, paragraph I.E.2 has been changed to be consistent with the change made to appendix G, paragraph I.C.10. The ''note'' has been clarified to state that, ''The origin of the LLW resulting from a processor's activities may be attributable to one or more 'generators' (including 'waste generators') as defined in this part.''

III. Control and Tracking—Appendix G, Paragraph III.A

Appendix G, paragraph III.A.2 has been modified to allow the label indicating classification of the waste (including the potential for a ''greater-than-Class C classification'') to be provided on the transport package (instead of the container) for those shipments for which labeling of the disposal container presents a potential radiation hazard.

Comment: Two commenters stated that Form 541 of the manifest may contain information important to emergency response teams responding to a transportation accident involving a LLW shipment and may be required by State agencies to accompany shipments. One commenter indicated that the New York State Department of Environmental Conservation requires information that is found on both Forms 540 and 541.

Response: The DOT has the Federal responsibility to determine what information must accompany a shipment to meet potential emergency response needs. The NRC has obtained DOT concurrence that the information provided on Form 540 meets their requirements for shipping papers. However, the rule does not preclude Form 541 from accompanying the shipment. Thus, if authoritative State requirements exist for information contained on Form 541, this information could accompany the shipment as Form 541 or a separate additional item of paperwork.

Final rule: No change.

Comment: One commenter stated that 60 days between a consignee's receipt of an advance manifest and a requirement to inform the NRC and the shipper that the consignee has not received the shipment seemed like a long time. Another commenter questioned what, exactly, needed to be completed within the one week window provided in the acknowledgement of shipment receipt.

Response: Advance notification can take place weeks before a shipment leaves the consignor's facility. As a result, 60 days is not considered too long a period. This period has not been changed from the current regulation. The rule states that the consignee must send the acknowledgement of receipt (a signed copy of Form 540) within one week of shipment receipt. Paragraph E of the existing rule, which has not been changed, addresses actions to be taken if acknowledgement of receipt is not received.

Final rule: No change.

Comment: One commenter asked who would be responsible for verifying and assuring the currentness of generators' QA programs.

Response: As indicated in the ''Certification'' section, the person signing the shipment manifest is certifying that the transported materials are properly classified, described, packaged, marked, and labeled. To the extent that a processor must rely on the information supplied by the waste generator, the processor must assure that the information received is sufficient, accurate, and current. Any QA program mandated by this rule, as adopted by Agreement States, would be subject to either NRC or Agreement State inspection and enforcement. On this subject, this rule has not instituted any substantive change.

Final rule: No change.

Comment: One commenter stated that the rule, in the current appendix F, paragraphs III.A.5, III.B.3, and III.C.6,

requires that a manifest both precede and be delivered to the consignee at the time the LLW is transferred. This commenter also suggested that the licensing authority be informed of a shipper's failure to receive acknowledgement of receipt of shipment at the time the shipper begins the required investigation or when the shipper has reason to believe a problem exists.

Response: The NRC does not see an NRC need to transmit both manifests. However, States or Compacts could impose this requirement. Similarly, because failure to receive acknowledgement is highly likely to be an administrative problem, the NRC sees no reason to change the existing regulation that requires reporting within two weeks of completion of the shipper's investigation.

Final rule: No change.

III. Control and Tracking—Appendix G, Paragraph III.B

Comment: Two commenters questioned whether the chain of custody of wastes handled by waste collectors can be determined under the requirements of this rule if more than one entity was involved with the waste before its handling by the collector. Another commenter stated that the identification of the original generator of LLW sent through processors or collectors must be ensured.

Response: Under the final rule, all waste collectors and processors must complete NRC Manifest Forms 540, 541 and 542. The information on these forms (including previous manifest numbers of shipments in which radioactive material was received) would allow any waste the collector or processor handles to be tracked back through one or more manifests to the originating ''generator'' or ''waste generator,'' as defined in the final rule.

Final rule: No change.

10 CFR Part 61

Section 61.12 Specific Technical Information (As Contained in Section 61.80)

Comment: Nine commenters discussed the concept of requiring that the storage of data be kept on electronic recordkeeping systems and reporting of data be accomplished on a machine (computer) readable medium. This requirement only applies to LLW disposal facilities. Eight of these commenters supported the requirements in the proposed rule. One commenter agreed with the NRC view that Agreement States should determine whether or not they will require their licensees to report stored information on a computer-readable medium. One commenter stated that there will be a need for quality assurance programs for both hardware and software of both the disposal facility operator and the generator of the waste. This commenter asked who would be responsible for verifying the generator's quality assurance programs. Because the disposal facility operators have different hardware and software, this commenter was concerned that information transfers may be so garbled as to be unusable.

Response: This rule does not change the existing requirement in 10 CFR Part 20 for a quality assurance program by any licensee who transfers radioactive waste to a land disposal facility. The appropriate licensing authority is, therefore, responsible for verifying that an acceptable program is in place. The disposal site operators currently verify incoming shipments as part of their quality assurance program. The NRC does not envision any change to these existing procedures. Any reporting of the information electronically stored at the LLW disposal facility would comply with the American Standard Code for Information Interchange requirements.

Final rule: No change.

Section 61.80 Maintenance of Records, Reports, and Transfers

In addition to the change discussed in this section, the proposed rule made an administrative correction to § 61.80(i)(1) regarding to whom the annual report should be submitted. This correction has been revised in the final rule to reflect the most recent NRC organizational changes. References to ''Appendix F'' have been changed to ''Appendix G.''

Comment: One commenter questioned the need to record and track discarded material (pallets, bracing, etc.), as the volume of these materials is insignificant and does not impact the performance of the facility. The commenter also believes this will be a burdensome chore.

Response: The NRC believes the commenter is correct and will make this requirement only applicable to contaminated material that is disposed of.

Final rule: The requirement will read, ''* * * the volume of any pallets, bracing, or other shipping or onsite generated materials that are contaminated, and * * *.''

Uniform Manifest Forms and Instructions

General Comments

Over two thirds of the commenters specifically stated their support for the development of a Uniform Radioactive Waste Manifest. None opposed the concept, but a few saw no problem with the manifests currently being used.

Many commenters went on to identify specific areas which they believe could improve upon the NRC's proposal. The NRC has incorporated many of these suggestions into the final rule, the Uniform Manifest forms, and the supporting instructions. One of the most significant comments on the forms dealt with the format in which the material is presented. As discussed in the Rulemaking History Section of this preamble, the NRC has attempted to meet the requirements of various Federal, State, and operator needs.

Several commenters noted that the proposed forms require some duplication of reporting between what is required for the DOT and the NRC. By far the most significant element of duplication dealt with reporting radionuclides and their activity on both NRC Forms 540 and 541. This resulted from the NRC staff's understanding of DOT's views of the regulatory acceptability of manifests currently in use, and was confirmed in a DOT letter to the NRC dated January 6, 1994. The DOT requires all their information to be together and not commingled with information requirements of the NRC, States, or the operating facility. Given this requirement to separate the information, the NRC believed that, in complying with the DOT requirements, a significant amount of physical paperwork accompanying the shipment could also be reduced by the use of electronic or other transfer of non-DOT information. Only DOT-required information must physically accompany the shipment. Therefore, the concept of three forms, each with a specific purpose, was developed.

NRC Form 540 is used to meet DOT shipping paper requirements for transportation and NRC waste tracking requirements. NRC Form 541 is used for waste and container information needed for assessing and monitoring disposal of radioactive waste. NRC Form 542 is used to collect waste generator information for LLW shipped from a waste collector or processor that can be used by the Compacts to establish the ''generator'' of LLW in the context of the LLRWPAA.

The NRC has worked with DOT in an attempt to minimize the burden of duplicative reporting. The DOT has

made an interpretation of its regulations that the shipping paper need only include a listing of the significant nuclides in a transportation package and document the total activity information on a ''package'' basis. The proposed rule required activity information by radionuclide. The NRC believes that this interpretation will significantly reduce duplicative reporting initially required for each nuclide and its respective activity.

Within the Department of Energy's (DOE's) National Low-Level Waste Management Program, a software package is under development that will prompt the user to provide the information needed to complete the uniform manifest and will then be capable of producing the completed manifest forms. It is intended that this software will be provided to requesters, and, if this activity is successful, the reporting burden will be further minimized.

Comment: Six commenters noted that the NRC Forms use a combination of English and metric (International System of Units (SI)) units. These commenters wanted the NRC to standardize the use of reporting units to reduce the inherent confusion. Of the commenters stating a preference, English units is the preferred choice.

Response: The NRC agrees that the use of dual units causes confusion. The proposed forms were designed to combine proposed requirements of DOT with standard reporting currently in use. Based on the presumed final DOT requirements and NRC's policy statement on the use of units (57 FR 46202; October 7, 1992), the forms and instructions have been revised to require the use of metric units (except one column on Form 540 to comply with a unique DOT requirement). The NRC has presumed that final DOT regulations will require the use of metric units for shipping papers (NRC Form 540). Because this requirement is consistent with NRC goals, the NRC Forms 541 and 542 will also require reporting in metric units. Note that reporting in metric units with English units following would also be acceptable. The rulemaking also modifies § 20.2101 (which requires records required by 10 CFR part 20 to use the curie, rad, and rem units) to require use of SI units for the manifest forms.

Comment: Nine commenters responded to NRC's request for comments on the potential to broaden the current purpose of the manifest number to provide information other than that required for tracking. These commenters were about equally split on the advisability of broadening the use of the manifest number. The supporters generally believe that a unique number may reduce some reporting requirements and would add a degree of control. One commenter noted that, while supporting the concept of a unique manifest number, its implementation could, however, be cumbersome, confusing and difficult. Those commenters not supporting broadening the manifest number's purpose, generally did not see a clear benefit to the change.

Response: While the NRC believes a unique manifest number could provide some benefits, the difficulty in implementing the concept at this time does not appear to warrant the resources that would be necessary. Also, at this time, the NRC does not have a clear concept of what a unique manifest number would include. Therefore, for this rulemaking, the NRC will not change the manifest number's purpose. After the Uniform Manifest is in use, the NRC will evaluate all aspects of the forms to identify potential improvements. The usefulness of the manifest number will be reviewed at that time to determine if changes are warranted.

Form 540

Comment: One commenter stated that it appeared that Form 540 is intended to replace the Bill of Lading.

Response: Form 540 is not intended to replace the Bill of Lading. However, the form does provide a format for reporting information to satisfy DOT's shipping paper requirements.

Box 1—Emergency Telephone Number and Organization

Comment: Several commenters questioned what organization is to be identified with the emergency telephone number. Information in this box was stated as being insufficient in light of other information accompanying shipments.

Response: The organization to be identified may be the shipper but could also be an organization, such as Chemtel. The telephone number is all that is required on the shipping paper by DOT. Other emergency response information required by DOT (49 CFR 172.602), but not as a shipping paper requirement, would still have to accompany the shipment.

Boxes 2 and 4—Exclusive Use and Regulated Waste Checkoff Boxes

Comment: Several commenters questioned why it is necessary to check these boxes indicating whether the shipment is ''Exclusive Use'' or includes EPA or State-designated hazardous waste. One commenter also asked whether a negative declaration would satisfy EPA that no material is present.

Response: Box 2 is provided to comply with the proposed DOT descriptive requirements for § 172.203 of title 49. The current Chem-Nuclear manifest contains this information item. Box 4 provides a crosscheck to ensure that an EPA Uniform Hazardous Waste Manifest is attached to the Uniform Low-Level Radioactive Waste Manifest, if required. It is not necessarily intended to provide a basis to satisfy EPA.

Box 5—Shipper—Name and Facility, Identifiers

Comment: Several commenters suggested that unique generator ID numbers should be developed to allow optimal tracking and possibly reduce the information required on the manifest. One commenter supported the addition of ''Fuel Cycle Industry'' to the ''Generator Type'' codes but suggested that the ''Other'' Code be deleted.

Response: The development of an ID system has merit. The NRC has concluded, however, that the development of such a system would be a significant undertaking and would have a serious impact on the rulemaking schedule. The NRC may consider development of an ID system after implementation of the rule if it appears necessary or worthwhile. Although the listed codes should cover the universe of generators, the ''Other'' code is being retained. A review of the use of this code may lead to appropriate expansions or clarifications of the coding system.

Box 6—Carrier Name and Address

Comment: One commenter suggested that space for more than one carrier was needed to be consistent with the requirements on the uniform hazardous waste manifest.

Response: The NRC believes that the required tracking can be accomplished through identification of the original carrier.

Box 7—Listing of the Number of Manifest Form Pages

Comment: Several commenters expressed views on the flexibility implied by this box that indicates the possibility of additional information being appended to the manifest by disposal facility operators, States, or Compacts. Four commenters believed that the rule should specifically prevent the possibility of unfettered additional uniform manifest requirements. Four other commenters supported this flexibility. However, most of these

commenters recognized that wide ranging additional reporting requirements would defeat the purpose of the Uniform Manifest. On a different point on this box, two commenters stated that the page numbering system was absurd.

Response: The NRC believes that the information being collected on the uniform manifest may not always be completely sufficient to meet a variety of legitimate needs. Because the manifest data requirements have been selected to satisfy the great majority of needs, the NRC believes the need for additional information should not present an overwhelming burden. If additional information is required on the manifest, it must be appended to the uniform manifest forms. This information, along with Forms 541 and 542, if required, may be transmitted electronically, by mail, or by some other mutually accepted method. The NRC agrees with those commenters that stated that transfer of unnecessary information would dilute a major purpose behind the development of a Uniform Manifest.

The NRC believes there may be some confusion on the page numbering system. All that is being asked for is the total number of pages comprising the manifest. The NRC believes this is a standard pagination scheme for ensuring completeness of a documentation package.

Box 8—Manifest Number

Comment: One commenter suggested that further guidance for uniquely identifying manifests is needed because LLW can move between several entities before being shipped to a disposal site. Two commenters questioned how tracking would be accomplished if the chain-of-custody involved more than one entity.

Response: As currently envisioned, all collectors or processors must complete Form 542 and, in so doing, identify a manifest number associated with the incoming shipment. Thus, LLW received at an LLW disposal site will be traceable back to the original generator, and no further guidance is needed.

Box 10—Certification

Comment: One commenter suggested further guidance on whose signature should appear in this block. One commenter stated that site-specific needs may dictate different wording. Another commenter stated that, in certain cases, certification to 10 CFR part 61 requirements is being requested for shipments not directed to a disposal facility. One commenter suggested that the certification statement should include an appropriate caveat for collectors who do not alter the form of LLW. One commenter generally addressed the responsibility issue.

Response: The NRC envisions that the person certifying the shipment will not change from existing practice. If it is necessary to change the wording of the statement, an additional certification sheet may be necessary. The words ''if applicable,'' have been added before the reference to 10 CFR part 61. The NRC believes the wording in the rule, appendix G, Section II, provides the caveat the commenter suggests.

Column 11—U.S. Department of Transportation Description

Comment: One commenter stated that the instructions were confusing in defining whether shipment or package information was being requested. Another commenter believes it was not clear how a shipper would describe a shipment of multiple disposal containers contained within a single transportation package.

Response: All information on Form 540 is on an individual package basis in compliance with DOT shipping paper regulations. Thus, Form 540 would include total package information while the information called for on Form 541 is on a ''disposal container'' basis.

Columns 12 and 14—DOT Label and Physical/Chemical Form

Comment: One commenter suggested that codes be used in documenting this information.

Response: The NRC seriously considered this possibility, but decided that, given the typical ''single word entries'' required, the flexibility provided without the use of codes outweighed the minimal savings in reporting burden that would be achieved.

Column 13—Transport Index

Comment: One commenter postulated an accident event involving a Low Specific Activity (LSA) shipment for which the information on Form 540 would not be useful because the Transport Index (TI) is not currently required to be contained on the shipping paper documentation. For this reason, the commenter suggested that NRC eliminate the requirement to use Form 540.

Response: The information requirements on NRC Form 540 are required by DOT for transportation of hazardous materials. The principal information on this form is for use by the first-on-the-scene responder to a transportation accident. Identification of the proper shipping name and U.N. ID number provides valuable information. These identifiers correlate with proper emergency actions. The TI is information which would be more useful in controlling normal occupational exposures.

Column 15 (Now Divided Into Columns 15 and 16)—Individual Radionuclides and Activity (Now Total Package Activity)

Comment: One commenter questioned what is meant by, ''* * * list all radionuclides that are present in the transport packaging,'' and suggested that guidance be provided on the specific SI units to be used. One commenter stated that requirements for listing of a radionuclide should be included in the rule. Two commenters stated that insufficient space is provided for both a listing of the nuclide and activity. Six commenters suggested that only a vertical listing, with one nuclide per line, should be considered. Another commenter suggested that the column be split into nuclide and activity columns.

Response: Reporting of radionuclides in the transport packaging is a DOT shipping paper requirement in which the instructions reference the appropriate DOT regulations for more information. The NRC is not providing detailed interpretive instructions of DOT regulations. The NRC has explained what is meant regarding the reporting units needed on NRC Form 541 (for NRC use). The NRC believes that the radionuclides reported on Form 541 should also be appropriate for DOT purposes. A DOT telephone number is provided if additional information or interpretation is needed. On the spacing issue, the NRC has completed several manifests from actual shipments and these examples indicate that more than enough space is provided for at least a double columnar listing of nuclides and respective activities on NRC Form 541, although the choice on the formatting in this column is left to the shipper and consignee. Because the DOT has agreed that only the total package activity needs to be reported, the spacing issue would now only involve Form 541. On the multiple columnar presentation, the NRC would note that current Transportation Shipment Package Records, that have been used when conveying radioactive material to processors, portray nuclides and their respective activities in a triple columnar field.

Column 16 (Now Column 17)—LSA/SCO Class

Comment: One commenter suggested codes for documenting this information,

while two commenters questioned the regulatory basis.

Response: The information in this column is based on a requirement proposed by DOT in their ''IAEA Compatibility'' rulemaking. Coding is not allowed by DOT for reporting this information. The NRC has presumed that this classification system will be incorporated into DOT's final rule.

Column 17 (Now Column 18)—Total Weight or Volume

Comment: One commenter questioned the multiple number of times that this type of information was requested on the three manifest forms.

Response: Although requests for volume and weight information do occur on each of the manifest forms, the volumes or weights requested are not necessarily identical. For example, the transportation package volume may not be the same as the disposal container volume, if multiple disposal containers are contained within a shielded overpack. The total volumes requested on Form 542 would represent the sum of all generator volumes which may be contained in a number of different disposal containers. This Form 542 summary contains information very similar to that required on the Manifest Index and Regional Compact Tabulation Sheets used by a current disposal site operator. This information is used for waste tracking purposes to ensure that sites are receiving wastes for which their State or Compact is responsible for disposal.

Column 18 (Now Column 19)—Identification Number of Package

Comment: One commenter suggested that this instruction should be worded as a requirement.

Response: Although the listing of the disposal container number on Form 541 is a requirement, this does not generally carryover to the transport packaging when the packaging and the disposal container are not identical. DOT does not require a package number to be provided on shipping papers.

Form 541

Box 1—Manifest Totals

In addition to the change discussed in this section of the preamble, the headings for the shipment volume and weight totals have been changed to reflect that total net values are being requested for any low-level radioactive waste shipment to which manifesting applies.

Comment: Five commenters brought up the issue of reporting of radionuclides (specifically Tc–99 and I–129) that are reported based on lower limits of detection (LLD). Concerns were expressed that if the totals, as presented in this box, represent the sum of the LLDs, or LLD's and ''real'' values in all disposal containers, a very significant overestimation of these nuclides in a disposal facility could result. One commenter suggested that this block require entry of net waste volume and weight.

Response: The NRC believes these comments have merit. Because it would be important to distinguish between ''real'' and LLD values, the instructions have been modified to indicate that the sums of the ''real'' and LLD values should be separately reported in this box, with the summed LLD value in parenthesis. Although the NRC recognizes that this reporting scheme does not solve the problem, this reporting approach will ''flag'' the conservative nature of the appropriate fraction of the inventories of these nuclides. The commenter is correct in presuming that net waste volumes and weights are being requested. Appropriate clarifications have been made to the manifest forms and instructions.

Columns 5 through 10—Disposal Container Description

Comment: One commenter stated that repetitive listing of a generator ID number, if more than one container is attributed to a generator, is unnecessary. Another commenter pointed out that the container described may not always be the ''disposal'' container and that, in these cases (e.g., shipments (of LLW) to waste processors), this column may not need to be completed. One commenter suggested that Column 8 should pertain to net waste weight. One commenter asked how a shipper should respond if more than one container description code applies. Another commenter asked if it was intended to use the numeric codes or the actual verbiage.

Response: The instructions have been clarified to avoid unnecessary repetition of generator ID numbers. The ''exemption'' referred to by the commenter was included in the instructions. This ''exemption'' is now the subject of a ''Note'' preceding the instructions for Column 5. The possibility that some of the container information may be required by the consignee also appears *italicized* in the introductory paragraph in the instructions for Form 541. Instructions that are not ''tied'' to information being required to comply with Federal regulations also now appear in *italics.*

Column 8 refers to total container and waste weight (See discussion pertaining to Column 12).

The intent is to report code numbers, if applicable. If more than one container description code applies, multiple codes can be reported.

Column 9—Surface Radiation Level

Comment: Two commenters suggested that this column could be better situated on Form 540 adjacent to the Transport Index.

Response: Combining this information with the information required by DOT on shipping papers would not, based on NRC staff interactions with DOT staff, be accepted by DOT. The information in this column is also required by one of the current disposal facility operators.

Column 10—Surface Contamination

Comment: Four commenters questioned the need for this information, especially in light of DOT standards.

Response: The information being requested in this column is directed at contamination levels on the surfaces of disposal containers, not transportation packagings. This information is currently requested by one of the disposal facility operators on their manifest in order to minimize contamination and control potential operational exposures. Through typographical error, this informational need was included as an NRC requirement in the proposed appendix F, paragraph I.C.10. As indicated in the response to comments on the rule, this requirement has been deleted from the rule but remains as a non-Federal information item on the manifest.

Column 12—Approximate Waste Volume(s) in Container

Comment: Two commenters suggested that if the waste volume information is only intended to meet disposal site acceptance criteria, this column could be deleted because the certification statement could be used to accomplish the same purpose. One commenter questioned whether the information on the manifest allowed an accurate estimate of the mass of the waste and whether the NRC recognized that the volume of the inner container may be substantially different from the actual waste volume. One commenter suggested that adjustments be considered so that the weight of the waste would be documented. One commenter suggested that this column be completed if the container fill volume was less than 90%. One commenter asked whether, if perlite was

used to fill void volume, this volume should be included in the total.

Response: For discrete waste items (e.g., activated metals), the volume of these items is of interest for waste classification purposes. The instructions have been expanded to make this clear and, for homogeneous type wastes, the instructions indicate that ''>85%'' can be entered if this fill volume is exceeded. The NRC believes that the weight of the waste can be estimated by either knowing the volume and density of the waste or subtracting container weight from the weight of the waste and container. If fill material is used, this volume may be included in the reported volume, but may not be considered for waste classification purposes. An alternative approach would be to report waste volume, but note that a ''fill'' has been used (e.g., to comply with disposal site acceptance criteria).

Column 14—Weight % Chelating Agent

Comment: One commenter suggested a code for ''None present'' and ''O'' be provided in this column. Another commenter asked what methods would be used to identify chelating agents.

Response: The commenter's suggestion was not taken because only an ''NP'' or ''O'' would need to be entered, and space for providing the preprinted codes is limited. NRC's intent in identifying chelating agents is described in general terms in the ''Final Waste Classification and Waste Form Technical Position,'' dated May 11, 1983.

Column 15—Radiological Description

Comment: Two commenters questioned the desirability of reporting individual nuclide activities as a percentage of total container activity. One commenter erroneously thought that this column limited the recording of nuclides to three entries. Another commenter suggested that the NRC consider establishing reporting thresholds for H–3, C–14, Tc–99, and I–129, and stated that explicit instructions are needed on the reporting of source and special nuclear material, ''daughter radionuclides,'' and the impact of nuclides with less than 5-year half-life on waste classification. One commenter pointed out that the passage of ''Reportable Quantity'' requirements should be considered in establishing the reporting thresholds defined in the instructions. A number of commenters questioned the effectiveness of allowing multiple-columnar reporting of radionuclides with their respective activities.

Response: Percentage reporting is not being mandated, but allowed. This method of reporting is allowed by a current disposal facility operator. The instructions have also been appended to clarify how the reporting of more than three significant radionuclides in a container should be achieved.

Although the concept of establishing threshold reporting quantities for the four indicated nuclides has merit, the analysis needed to support a specific threshold has not been defined. Thus, consistent with the existing regulation, no threshold for the reporting of these four nuclides is included in the instructions.

On the reporting of source material, the instructions have been expanded to clarify that the ''mass'' being asked for applies only to the elemental mass of uranium and thorium (including uranium and thorium contained in ''unimportant quantities,'' as defined in 10 CFR 40.13), and not the weight of the waste containing these nuclides. The instructions now also specifically state that the activities of the nuclides specifically referred to in the ''Manifest Total'' Box (i.e., H–3, C–14, Tc–99, and I–129) must always be manifested. The instructions also state that daughter products must be either individually reported or, if within a factor of 2 of being in equilibrium with its (their) parent, be reported as the parent with its activity listed, but with the symbol ''D'' or ''NAT'' indicating daughter products in equilibrium (i.e., Cs–137D or ThNAT). ''Significant quantities'' of nuclides with half-lives less than 5 years must be included in determining the waste classification of a disposal container (note that this will only apply in determining whether the Class should be Class A or B). Finally, the instructions have been expanded to indicate that any radionuclide whose activity represents a Reportable Quantity under DOT regulations must be included on the manifest.

In response to comments on multicolumnar reporting, the NRC has reconfigured the item 15 column to indicate the possibility of using two subcolumns. The first subcolumn must include the radionuclide and its activity in metric units. The second subcolumn may be: (1) Used to include the activity in English units, if required by the State or operating facility, (2) left blank if not needed, or (3) used to report a second radionuclide and its activity. The line which splits column 15 is provided to minimize imputing and checking errors, if the third option is chosen.

Column 16—Waste Classification

Comment: One commenter suggested that boxes be provided to check a waste class. Two commenters stated that the ''Class'' designations do not establish whether Class B and C waste has been stabilized.

Response: The instructions have been broadened to indicate that Class B and C waste should be classified as BU or BS, or CU or CS; the U or S indicating whether the waste is in stable or unstable form. Because the combination of possibilities has been increased to six, the information to be recorded would only consist of two letters, and space on the form is limited, ''checkoff'' boxes have not been added to the form.

Container, Waste, and Media Codes

Comment: One commenter stated that the waste descriptor codes should be consistent with existing NRC classifications of LLW. Another commenter pointed out that the codes do not match directly with those of US Ecology. One commenter suggested that ''EPA (or State) hazardous'' should not be a physical descriptor for waste and questioned why ''concrete'' was specifically identified as an encapsulation media. One commenter suggested that the descriptor, ''wooden box'' be dropped and ''woven polypropylene bulk bag'' be added to reflect actual practices. This commenter also believed that the waste descriptors were excessive for the purposes being addressed. One commenter suggested that Zonolite grade 4 be deleted and ''Vinyl Chloride'' replace ''Vinyl Toluene.'' One commenter suggested that ''State hazardous'' be added along with ''EPA hazardous.''

Response: The NRC believes the codes are somewhat more detailed than the waste streams characterized in the Environmental Impact Statement that supported the 10 CFR part 61 rulemaking. Although the codes are not identical to those used by US Ecology, the NRC staff believes that all the US Ecology codes can be related to the codes on Form 541, and the ''other'' code can also be used. If a rationale for a specific code, that is not included exists, it can be added to the list. The ''EPA (or State) hazardous'' descriptor is provided as a ''tie-in'' to EPA's or a State's Uniform Hazardous Waste Manifest. The specific identification of concrete as an encapsulation media has been deleted and the commenter's suggestion on container descriptions has been accepted. The NRC believes that feedback from the performance assessment process may indeed lead to a consolidation of waste descriptor codes, with time. The suggestions that Zonolite grade 4 be deleted and ''Vinyl Chloride'' replace ''Vinyl Toluene'' have been accepted. The phrase ''EPA

hazardous'' has been modified to read ''EPA or State Hazardous.''

Form 542

Column 5—Generator Name, Permit Number, and Telephone Number

Comment: One commenter suggested that the ''generator type'' code should also be included. Two commenters questioned why ''permit number'' is called for, given that the generator ID number is provided in Column 4.

Response: Because the generator ID number should allow the determination of generator type, the inclusion of this information was not considered necessary. Permit number was included because, for certain generators, the generator ID number assigned by the disposal facility operator is not identical to the permit number assigned by the appropriate regulatory authority. Optimization of these identifiers could lead to elimination of this reporting need.

Column 9—Waste Code

Comment: One commenter suggested that boxes be provided to check whether the waste represents processed or collected waste.

Response: Given the single letter entry needed, and the fact that an existing manifest does not preprint these letters, the NRC did not see a need to provide individual ''C'' or ''P'' boxes to be checked.

Column 10—Originating Compact Region or State

Comment: One commenter suggested that codes be used for the Compacts or States. Another commenter stated that if the Generator ID number included the two-digit State abbreviation, there would be no need to report this information in Column 10.

Response: The NRC's intent was that codes be used. The instructions have been expanded to state this preference. Because current generator ID numbers do not uniformly include the State abbreviation, it was included in Column 10. If generator ID numbers are systematized, as the commenter suggests, and as membership in Compacts stabilizes, this column could be deleted.

National Data Base Comments

Comment: In the proposed rule, the NRC discussed possible uses of and needs for a national computer LLW data base. The NRC expressed interest in public views on the benefits in developing such a system, and if developed, who would be an appropriate operator. Eighteen commenters spanned a spectrum of responses, from support for a national data base with NRC as the operator, to the belief that a national data base is unnecessary. Comments also spanned the topic of data availability, from making sure the information is publicly accessible to the need to ensure that sensitive data is protected. One commenter noted that because disposal options have been significantly reduced, much LLW may end up in extended storage and a national data base as envisioned (data reported by the LLW disposal facilities) would not yield the quantity of data originally expected. Two commenters noted that LLW data bases already exist and that the NRC should use these existing systems and work with the DOE to make any necessary modifications to meet the informational needs of both NRC and state regulators.

Response: The NRC believes that because there will only be a few LLW facility operators in the near future, it is premature to establish a new national LLW data base. The NRC agrees with those commenters that stated that the existing systems can be the basis for a broad and uniform national system. The NRC will work with DOE and Agreement States to improve the existing data base, as necessary. Improvements may result from the use of the Uniform Manifest and the improved ability to report and compile this data.

Regulatory Analysis Comments

Comment: One commenter stated that the economic impact analysis is unclear in the ''Regulatory Flexibility Certification'' section. The commenter stated that according to the discussion, the proposed rule would have a negative $480,000 to a positive $100,000 impact on the regulated community. If one back calculates to the 34,000 cubic feet generated by hospitals, the range would be negative $13,600 to a positive $2,400. These figures deserve to be substantiated and justified.

Response: The costs and cost savings associated with the uniform manifest are mainly associated with additional entry costs from the uniform manifest having more fields than the currently used shipment manifest forms and from the development of computer software to generate the forms. The data entry costs are related to the amount of additional data entered per shipment, the number of shipments, and the degree of automation of data entry. It appears that data entry costs were underestimated and the final regulatory analysis contains updated estimates. Whether there is a cost or cost savings related to development of manifest generation software depends on the number of different manifest forms there would be in the absence of a uniform manifest. If each regional disposal facility would require its own manifest forms, a savings in software development costs would result from the use of a uniform manifest. If the current US Ecology and Chem-Nuclear Systems forms would still be used for all regional disposal facilities, additional software generation costs would result from use of the uniform manifest. Because costs are not related to waste volume, the impact of the proposed rule on hospitals that generate LLW is not directly related to the volume of LLW that these hospitals generate.

Comment: Two commenters questioned the incremental time and cost to generate the new uniform manifest versus current manifests in use. One commenter stated that the requirements of Form 540 could increase the time to generate a manifest to 5 hours or more for a large shipment rather than the 0.65 hours shown in the **Federal Register** notice (57 FR 14500; April 21, 1992). One commenter stated that the response time for collection of information is substantially underestimated and that the increased complexity of the forms is expected to significantly increase clerical costs well beyond the estimate of $5,000 to $15,000.

Response: The estimate of the amount of time it takes to enter data on the uniform manifest was based on the number of fields, the nature of the field (i.e., whether it contains fixed point, floating point, or alphanumeric data) and whether the data is entered manually on the forms, on a computer, or from a waste management database. An experienced data entry clerk was consulted. From this and other comments to the notice of proposed rulemaking, including the comments made at the public meeting held on June 15, 1993 and subsequent NRC experience, it appears that the effort required to complete the manifest forms was underestimated. In the final regulatory analysis, the estimated time to complete a manifest by a generator (NRC Forms 540 and 541) has been changed from 2.5 hours to 2.8 hours. The estimated time to complete the manifest for a collector/processor (NRC Forms 540, 541, and 542) has been changed from 3.1 to 9.2 hours. The significant change for the collector/processor comes from information in a January 1994, report prepared for the NRC (NUREG/CR–6147) that resulted in more than twice the estimated size (number of containers) in collector/

processor shipments. The end result, however, is not as drastic since the total number of shipments is accordingly reduced.

Final rule: The Regulatory Analysis has been updated to reflect more accurate estimates of effort. The resulting changes have not changed the conclusion to implement the final rulemaking.

IV. Compatibility of Agreement State Regulations

The Commission is requiring that the Uniform Low-Level Radioactive Waste Manifest be used by all shippers of low-level radioactive waste; that is, by all waste generators, waste collectors, and waste processors licensed by either the Commission or Agreement States. The Commission and Agreement State licensees required to use the Uniform Manifest, therefore, would also be required to record the minimal information requirements as called for on the applicable Uniform Manifest forms.

In the development of the three sets of forms comprising the Uniform Manifest, the NRC staff has coordinated its efforts with staff at DOT and with Agreement and non-Agreement States. Most State representatives have indicated support for a base set of information needs and a uniform manifest. The Commission believes the information called for on the Uniform Manifest not only satisfies Commission requirements and DOT shipping paper requirements, but also the majority of requirements of Agreement State regulatory authorities (and land disposal facility operators).

The Commission recognizes that a particular Agreement State may require additional information for their unique regulatory purposes and that disposal site operators may require further information to satisfy operational and administrative considerations. Therefore, this regulation does not prohibit Agreement States or disposal site operators from broadening manifest usage or from imposing additional manifest requirements which may be transmitted as additional pages to the Uniform Low-Level Radioactive Waste Manifest. Serious consideration should be given to the need for specific additional information vis-a-vis the advantages in maintaining a ''uniform'' manifesting system. Caution must be taken, however, to ensure that any additional requirements for information are reported in a format which does not conflict with DOT regulations for shipping papers (i.e., 49 CFR part 172). Also, the NRC Forms, although requiring the use of metric units, does not preclude reporting in metric and English units.

Accordingly, the Commission designates 10 CFR 20.2006, Transfer for Disposal and Manifests (excluding appendix F)—as Division 1. This designation maintains uniformity in manifest format and content while at the same time allowing flexibility for additional information being supplied in the manifest by adding supplemental pages. 10 CFR 20.2101, which discusses units to use, is designated Division 2, since although SI units must be used, English units can also be reported.

The Commission designates 10 CFR 61.12, Specific Technical Information, including the new paragraph (n) that deals with a description of an electronic record keeping system, as Division 2 because Agreement States can satisfy the principles using alternate language.

10 CFR 61.80, Maintenance of Records, Reports and Transfers, remains designated Division 3, except for § 61.80(l)(1) which is designated Division 2 because it requires that the disposal facility licensee maintain an electronic record keeping system. This designation will help ensure that manifest information will be available in an electronic format for both NRC and Agreement State licensed sites. The new requirement to report such stored information on a computer-readable medium, however, should be the prerogative of each Agreement State, and this new requirement in § 61.80(l)(2), is designated Division 3.

V. Environmental Impact: Categorical Exclusion

The Commission has determined that this final rule is the type of action described in categorical exclusions 10 CFR 51.22(c)(3) (ii) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

VI. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150–0014, –0135, –0164, –0165, and –0166.

Public reporting burden for this collection of information is estimated to average 1.04 hours per response under 10 CFR parts 20 and 61, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The time to complete standard shipping manifests required by this rulemaking, NRC Forms 540, 541, and 542, depends upon the size and complexity of the shipment and whether the shipment is from a generator or a collector/processor. A shipment from a generator is estimated to require 2.8 hours (63 minutes to complete Form 540 and 103 minutes for Form 541—no Form 542 is needed). A shipment from a collector/processor is estimated to require 9.2 hours (161 minutes to complete Form 540, 363 minutes for Form 541, and 26 minutes for Form 542). The representative collector/processor's manifest takes longer to complete primarily because it is assumed that their shipments have more than twice as many containers as from a generator's shipment. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch, Mail Stop T–6 F33, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0014, –0135, –0164, –0165, and –0166), Office of Management and Budget, Washington, DC 20503.

VII. Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from M. Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mail Stop T–9 F33.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities. A significant number of hospitals and academic institutions are LLW waste generators, and most of these are non-profit organizations. During 1986–1990, about 4.6% of the 7.8 million cubic feet of disposed of LLW was generated by hospitals and academic institutions. Thus, a substantial number of small entities could be affected by the rule.

With an expected disposal fee of approximately $150/cubic foot, annual disposal costs for these small entities will be in the range of $11 million. The estimated upper limit costs to implement this rule for the small entities is approximately $65,000. Similarly, the estimated upper limit of annual operational cost for these small entities is approximately $2,000. These costs are insignificant relative to the annual disposal costs (which do not include costs such as packaging and transportation). Because the percentage increases in disposal costs that may be caused by the rule is substantially less than 1%, the rule would not have a significant economic impact on the small entities affected by the rule.

IX. Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1). The additional information to be placed on NRC manifest forms will not require nuclear power licensees to change existing procedures used in operation of their facilities. Therefore, a backfit analysis is not required.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 20 and 61.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955 as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. Section 20.1009 is revised to read as follows:

§ 20.1009 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The OMB has approved the information collection requirements contained in this part under control number 3150–0014.

(b) The approved information collection requirements contained in this part appear in §§ 20.1101, 20.1202, 20.1204, 20.1206, 20.1301, 20.1302, 20.1501, 20.1601, 20.1703, 20.1901, 20.1902, 20.1904, 20.1905, 20.1906, 20.2002, 20.2004, 20.2006, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2109, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 20.2206, and appendices F and G to 10 CFR part 20.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1). In § 20.2104, NRC Form 4 is approved under control number 3150–0005.

(2). In §§ 20.2106 and 20.2206, NRC Form 5 is approved under control number 3150–0006.

(3). In § 20.2006 and appendix G to 10 CFR part 20, NRC Form 540 and 540A is approved under control number 3150–0164.

(4). In § 20.2006 and appendix G to 10 CFR part 20, NRC Form 541 and 541A is approved under control number 3150–0165.

(5). In § 20.2006 and appendix G to 10 CFR part 20, NRC Form 542 and 542A is approved under control number 3150–0166.

3. Section 20.2006 is revised to read as follows:

§ 20.2006 Transfer for disposal and manifests.

(a)(1) The requirements of this section and appendices F and G to 10 CFR part 20 are designed to

(i) Control transfers of low-level radioactive waste by any waste generator, waste collector, or waste processor licensee, as defined in this part, who ships low-level waste either directly, or indirectly through a waste collector or waste processor, to a licensed low-level waste land disposal facility (as defined in part 61 of this chapter);

(ii) Establish a manifest tracking system; and

(iii) Supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Beginning March 1, 1998, all affected licensees must use Appendix G. Prior to March 1, 1998, a LLW disposal facility operator or its regulatory authority may require the shipper to use appendix F or appendix G. Licensees using appendix F shall comply with paragraph (b)(1) of this section. Licensees using appendix G shall comply with paragraph (b)(2) of this section.

(b)(1) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest in accordance with section I of appendix F to 10 CFR part 20.

(2) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with appendix G to 10 CFR part 20.

(c) Each shipment manifest must include a certification by the waste generator as specified in section II of appendix F or appendix G to 10 CFR part 20, as appropriate. See paragraph (a)(2) of this section to determine the appropriate appendix.

(d) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in section III of appendix F or appendix G to 10 CFR part 20, as appropriate. See paragraph (a)(2) of this section to determine the appropriate appendix.

4. Section 20.2101 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 20.2101 General provisions.

* * * * *

(b) Not withstanding the requirements of paragraph (a) of this section, when recording information on shipment manifests, as required in § 20.2006(b), information must be recorded in the International System of Units (SI) or in SI and units as specified in paragraph (a) of this section.

* * * * *

5. A new appendix G is added to 10 CFR part 20 to read as follows:

Appendix G to 10 CFR Part 20—Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests

I. Manifest

A waste generator, collector, or processor who transports, or offers for transportation, low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a Manifest (OMB Control Numbers 3150–0164, –0165, and –0166) reflecting information requested on applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). NRC Forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC Forms 541 and 541A and 542 and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms. Licensees are not required by NRC to comply with the manifesting requirements of this part when they ship:

(a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

(b) LLW that is being returned to the licensee who is the ''waste generator'' or ''generator,'' as defined in this part; or

(c) Radioactively contaminated material to a ''waste processor'' that becomes the processor's ''residual waste.''

For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this appendix may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.

NRC Forms 540, 540A, 541, 541A, 542 and 542A, and the accompanying instructions, in hard copy, may be obtained from the Information and Records Management Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7232.

This appendix includes information requirements of the Department of Transportation, as codified in 49 CFR part 172. Information on hazardous, medical, or other waste, required to meet Environmental Protection Agency regulations, as codified in 40 CFR parts 259, 261 or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, the required EPA forms must accompany the Uniform Low-Level Radioactive Waste Manifest required by this chapter.

As used in this appendix, the following definitions apply:

Chelating agent has the same meaning as that given in § 61.2 of this chapter.

Chemical description means a description of the principal chemical characteristics of a low-level radioactive waste.

Computer-readable medium means that the regulatory agency's computer can transfer the information from the medium into its memory.

Consignee means the designated receiver of the shipment of low-level radioactive waste.

Decontamination facility means a facility operating under a Commission or Agreement State license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives, and, for purposes of this part, is not considered to be a consignee for LLW shipments.

Disposal container means a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see ''high integrity container''). Note that for some shipments, the disposal container may be the transport package.

EPA identification number means the number received by a transporter following application to the Administrator of EPA as required by 40 CFR part 263.

Generator means a licensee operating under a Commission or Agreement State license who (1) is a waste generator as defined in this part, or (2) is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

High integrity container (HIC) means a container commonly designed to meet the structural stability requirements of § 61.56 of this chapter, and to meet Department of Transportation requirements for a Type A package.

Land disposal facility has the same meaning as that given in § 61.2 of this chapter.

NRC Forms 540, 540A, 541, 541A, 542, and 542A are official NRC Forms referenced in this appendix. Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, NRC Forms 541 (and 541A) and NRC Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media must have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

Package means the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport.

Physical description means the items called for on NRC Form 541 to describe a low-level radioactive waste.

Residual waste means low-level radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

Shipper means the licensed entity (i.e., the waste generator, waste collector, or waste processor) who offers low-level radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

Shipping paper means NRC Form 540 and, if required, NRC Form 540A which includes the information required by DOT in 49 CFR part 172.

Source material has the same meaning as that given in § 40.4 of this chapter.

Special nuclear material has the same meaning as that given in § 70.4 of this chapter.

Uniform Low-Level Radioactive Waste Manifest or *uniform manifest* means the combination of NRC Forms 540, 541, and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

Waste collector means an entity, operating under a Commission or Agreement State license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

Waste description means the physical, chemical and radiological description of a low-level radioactive waste as called for on NRC Form 541.

Waste generator means an entity, operating under a Commission or Agreement State license, who (1) possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use, and (2) transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal. A licensee performing processing or decontamination services may be a ''waste generator'' if the transfer of low-level radioactive waste from its facility is defined as ''residual waste.''

Waste processor means an entity, operating under a Commission or Agreement State license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

Waste type means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified in a specifically defined media).

Information Requirements

A. General Information

The shipper of the radioactive waste, shall provide the following information on the uniform manifest:

1. The name, facility address, and telephone number of the licensee shipping the waste;

2. An explicit declaration indicating whether the shipper is acting as a waste

generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and

3. The name, address, and telephone number, or the name and EPA identification number for the carrier transporting the waste.

B. Shipment Information

The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

1. The date of the waste shipment;

2. The total number of packages/disposal containers;

3. The total disposal volume and disposal weight in the shipment;

4. The total radionuclide activity in the shipment;

5. The activity of each of the radionuclides H–3, C–14, Tc-99, and I–129 contained in the shipment; and

6. The total masses of U–233, U–235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

C. Disposal Container and Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

1. An alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;

2. A physical description of the disposal container, including the manufacturer and model of any high integrity container;

3. The volume displaced by the disposal container;

4. The gross weight of the disposal container, including the waste;

5. For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;

6. A physical and chemical description of the waste;

7. The total weight percentage of chelating agent for any waste containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

8. The approximate volume of waste within a container;

9. The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name;

10. The identities and activities of individual radionuclides contained in each container, the masses of U–233, U–235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

11. The total radioactivity within each container; and

12. For wastes consigned to a disposal facility, the classification of the waste pursuant to § 61.55 of this chapter. Waste not meeting the structural stability requirements of § 61.56(b) of this chapter must be identified.

D. Uncontainerized Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

1. The approximate volume and weight of the waste;

2. A physical and chemical description of the waste;

3. The total weight percentage of chelating agent if the chelating agent exceeds 0.1% by weight, plus the identity of the principal chelating agent;

4. For waste consigned to a disposal facility, the classification of the waste pursuant to § 61.55 of this chapter. Waste not meeting the structural stability requirements of § 61.56(b) of this chapter must be identified;

5. The identities and activities of individual radionuclides contained in the waste, the masses of U–233, U–235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

6. For wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

E. Multi-Generator Disposal Container Information

This section applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor's activities may be attributable to one or more ''generators'' (including ''waste generators'') as defined in this part). It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators.

1. For homogeneous mixtures of waste, such as incinerator ash, provide the waste description applicable to the mixture and the volume of the waste attributed to each generator.

2. For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and, for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

(a) The volume of waste within the disposal container;

(b) A physical and chemical description of the waste, including the solidification agent, if any;

(c) The total weight percentage of chelating agents for any disposal container containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(d) The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in 10 CFR 61.56(b); and

(e) Radionuclide identities and activities contained in the waste, the masses of U–233, U–235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

II. Certification

An authorized representative of the waste generator, processor, or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the Commission. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

III. Control and Tracking

A. Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in paragraphs A.1 through 9 of this section. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of paragraphs A.4 through 9 of this section. A licensee shall:

1. Prepare all wastes so that the waste is classified according to § 61.55 and meets the waste characteristics requirements in § 61.56 of this chapter;

2. Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater then Class C waste, in accordance with § 61.55 of this chapter;

3. Conduct a quality assurance program to assure compliance with §§ 61.55 and 61.56 of this chapter (the program must include management evaluation of audits);

4. Prepare the NRC Uniform Low-Level Radioactive Waste Manifest as required by this appendix;

5. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either (i) receipt of the manifest precedes the LLW shipment or (ii) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (i) and (ii) is also acceptable;

6. Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in paragraph A.5 of this section;

7. Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

8. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by 10 CFR Parts 30, 40, and 70 of this chapter; and

9. For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix.

B. Any waste collector licensee who handles only prepackaged waste shall:

1. Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

2. Prepare a new manifest to reflect consolidated shipments that meet the requirements of this appendix. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

3. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: (i) Receipt of the manifest precedes the LLW shipment or (ii) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (i) and (ii) is also acceptable;

4. Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in paragraph B.3 of this section;

5. Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

6. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by 10 CFR parts 30, 40, and 70 of this chapter;

7. For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix; and

8. Notify the shipper and the Administrator of the nearest Commission Regional Office listed in appendix D of this part when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

C. Any licensed waste processor who treats or repackages waste shall:

1. Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

2. Prepare a new manifest that meets the requirements of this appendix. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in paragraph I.E. of this appendix;

3. Prepare all wastes so that the waste is classified according to § 61.55 of this chapter and meets the waste characteristics requirements in § 61.56 of this chapter;

4. Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with §§ 61.55 and 61.57 of this chapter;

5. Conduct a quality assurance program to assure compliance with §§ 61.55 and 61.56 of this chapter (the program shall include management evaluation of audits);

6. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: (i) Receipt of the manifest precedes the LLW shipment or (ii) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (i) and (ii) is also acceptable;

7. Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in paragraph C.6 of this section;

8. Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

9. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by 10 CFR parts 30, 40, and 70 of this chapter;

10. For any shipment or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix; and

11. Notify the shipper and the Administrator of the nearest Commission Regional Office listed in appendix D of this part when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

D. The land disposal facility operator shall:

1. Acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

2. Maintain copies of all completed manifests and electronically store the information required by 10 CFR 61.80(l) until the Commission terminates the license; and

3. Notify the shipper and the Administrator of the nearest Commission Regional Office listed in appendix D of this part when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

6. The authority citation for part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

7. Section 61.12 is amended by adding paragraph (n) to read as follows:

§ 61.12 Specific technical information.

* * * * *

(n) A description of the facility electronic recordkeeping system as required in § 61.80.

8. Section 61.80 is amended by revising paragraph (f) and (i)(1), and adding paragraph (l) to read as follows:

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date that the shipment is received at the disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste disposal containers as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or onsite generated materials that are contaminated, and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged disposal containers or radiation or contamination levels in excess of limits specified in Department of Transportation and Commission regulations. The licensee shall briefly describe any repackaging operations of any of the disposal containers included in the shipment, plus any other information required by the Commission as a license condition. The licensee shall retain these records until the Commission transfers or terminates the license that authorizes the activities described in this section.

* * * * *

(i)(1) Each licensee authorized to dispose of waste materials received from other persons, pursuant to this part, shall submit annual reports to the appropriate Commission regional office shown in Appendix D to 10 CFR part 20, with copies to the Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Reports must be submitted by the end of the first calendar quarter of each year for the preceding year.

* * * * *

(l) In addition to the other requirements of this section, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of

radioactive waste in an electronic recordkeeping system.

(1) The manifest information that must be electronically stored is—

(i) That required in 10 CFR part 20, appendix G, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

(ii) That information required in paragraph (f) of this section.

(2) As specified in facility license conditions, the licensee shall report the stored information, or subsets of this information, on a computer-readable medium.

Dated at Rockville, MD this 20th day of March 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–7302 Filed 3–24–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–35–AD; Amendment 39–9180; AD 93–15–02 R1]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises Airworthiness Directive (AD) 93–15–02, which requires the following on Fairchild Aircraft SA226 and SA227 series airplanes that are equipped with a certain Simmonds-Precision pitch trim actuator: repetitively measuring the freeplay of the pitch trim actuator and repetitively inspecting the actuator for rod slippage; immediately replacing any actuator if certain freeplay limitations are not met or rod slippage is evident; and eventually replacing the actuator regardless of the inspection results. This action maintains these requirements, but reduces the hours time-in-service (TIS) before the initial inspection is required, and shortens both the time period between repetitive inspections and the actuator replacement compliance time (unless the replacement actuator is new or if the nut tube assemblies have been replaced during overhaul). An in-flight incident where the referenced actuator on one of the affected airplanes failed after accomplishment of the 5,000-hour initial inspection (with satisfactory results) prompted this action. The actions specified by this AD are intended to prevent the horizontal stabilizer from going nose-down or jamming because of pitch trim actuator failure, which could result in loss of control of the airplane.

DATES: Effective April 17, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 5, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–35–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Field Support Engineering, Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421; facsimile (210) 820–8609. This information may also be examined at the FAA, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5150; facsimile (817) 222–5959.

SUPPLEMENTARY INFORMATION: AD 93–15–02, Amendment 39–8648 (59 FR 40734, July 30, 1993), currently requires the following on Fairchild Aircraft SA226 and SA227 series airplanes that are equipped with a Simmonds-Precision pitch trim actuator, part number (P/N) DL5040M5: repetitively measuring the freeplay of the pitch trim actuator and repetitively inspecting the actuator for rod slippage; and, if certain freeplay limitations are not met or rod slippage is evident, replacing any actuator with a new actuator of the same part number or with a part of improved design, P/N 27–19008–01 or 27–19008–02. The requirements of the AD will no longer apply when an actuator of improved design is installed. Accomplishment of the freeplay measurements and inspections is in accordance with the instructions in Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, and Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: April 28, 1993, as applicable. Accomplishment of the pitch trim actuator replacement is in accordance with the applicable maintenance manual.

AD 93–15–02 was issued based on reports of two in-flight incidents where the above-referenced pitch trim actuator failed on Fairchild Aircraft SA226 and SA227 series airplanes. In one case, the horizontal stabilizer went full-nose down, and in the other instance, the horizontal stabilizer jammed. Fortunately, the pilots were able to safely land in both of these instances. Upon removal and inspection of each of these pitch trim actuators, fatigued barrel nuts were found and the actuator usage time was well over 5,000 hours TIS.

Since AD 93–15–02 became effective, the FAA received a report of an in-flight incident where the referenced actuator on one of the affected airplanes failed. The airplane operator had accomplished the 5,000-hour TIS initial inspection (with satisfactory results), but had not reached the 6,500-hour TIS mandatory replacement threshold.

Fairchild Aircraft has revised SA226 Series SL 226–SL–005 and SA227 Series SL 227–SL–011 to reflect the revised compliance times and a change to the inspection procedure. The revision date of this service information is March 2, 1995.

After examining the circumstances and reviewing all available information related to the incident described above, the FAA has determined that AD 93–15–02 should be revised by (1) reducing the number of hours TIS before the initial inspection is required; and (2) shortening both the time period between repetitive inspections and the actuator replacement compliance time, unless the replacement actuator is new or if the tube nut assemblies have been replaced during overhaul.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design that are equipped with a Simmonds-Precision pitch trim actuator, P/N DL5040M5, this AD requires the same repetitive inspections and actuator replacement as AD 93–15–02, but revises the compliance times as previously specified. The inspections will be accomplished in accordance with the instructions in Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, and Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: March 2, 1995, as applicable.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior 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 immediate flight safety and, thus, was not preceded by notice and opportunity to 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 above. 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 No. 93–CE–35–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be significant under Executive Order 12866. It is impracticable for the agency to follow the procedures of Executive Order 12866 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. 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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

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 39–8648 (59 FR 40734, July 30, 1993), and by adding a new airworthiness directive to read as follows:

93–15–02 R1 Fairchild Aircraft: Amendment 39–9180; Docket No. 93–CE–35–AD. Revises AD 93–15–02, Amendment 39–8648.

Applicability: All SA226 and SA227 series airplanes (all models and serial numbers) that are equipped with a Simmonds-Precision pitch trim actuator, part number (P/N) DL5040M5, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) 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 the horizontal stabilizer from going nose down or jamming because of pitch trim actuator failure, which could result in loss of control of the airplane, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Upon accumulating 3,000 hours time-in-service (TIS) on a Simmonds-Precision pitch trim actuator, P/N DL5040M5, or within the next 50 hours TIS accumulated on this type pitch trim actuator after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 250 hours TIS until paragraph (b) is complied with, accomplish the following:

Note 3: If hours TIS accumulated on the pitch trim actuator are not maintained, then hours TIS accumulated on the airplane may be substituted.

(1) Measure the freeplay of the pitch trim actuator and inspect the actuator for rod slippage in accordance with the INSTRUCTIONS section of Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, and Fairchild Aircraft SA227 Series SL 227–SL–011, both issued: April 8, 1993, revised: March 2, 1995, as applicable.

(2) If certain freeplay limitations specified in the service letters are not met or rod slippage is evident, prior to further flight, accomplish the replacement specified in either paragraph (b)(1) or (b)(2) of this AD.

(b) Within 500 hours TIS after the inspection specified in paragraph (a) of this AD or upon accumulating 5,000 hours TIS on a Simmonds-Precision pitch trim actuator, P/N DL5040M5, whichever occurs later, accomplish one of the following:

(1) Replace the pitch trim actuator with a new part of the same design and part number in accordance with the instructions in the applicable maintenance manual. Reinspect as specified in paragraph (a) of this AD at intervals not to exceed 300 hours TIS, and replace the actuator as specified in paragraph (b) of this AD at intervals not to exceed 6,500 hours TIS.

(2) Replace the pitch trim actuator with an overhauled, zero-timed part of the same design and part number. Accomplish this replacement in accordance with the instructions in the applicable maintenance manual, and reinspect and replace as specified below (paragraphs (b)(2)(i) and (b)(2)(ii) of this AD):

(i) If both nut tube assemblies, P/N AA56142, were replaced with new assemblies during overhaul, reinspect as specified in paragraph (a) of this AD at intervals not to exceed 300 hours TIS, and

replace the actuator as specified in paragraph (b) of this AD at intervals not to exceed 6,500 hours TIS;

(ii) If both nut tube assemblies, P/N AA56142, were not replaced with new assemblies during overhaul, reinspect as specified in paragraph (a) of this AD at intervals not to exceed 250 hours TIS, and replace the actuator as specified in paragraph (b) of this AD at intervals not to exceed 5,000 hours TIS.

(3) Replace the pitch trim actuator with a new part of improved design, P/N 27–19008–01 or 27–19008–02, in accordance with the instructions in the applicable maintenance manual.

(i) This replacement eliminates the repetitive inspection requirement of this AD.

(ii) This replacement may be accomplished at any time to eliminate the inspection requirement of this AD.

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

(d) 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, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(e) The inspections and modification required by this AD shall be done in accordance with Fairchild Aircraft SA226 Series Service Letter 226–SL–005, and Fairchild Aircraft SA227 Series Service Letter 227–SL–011, both Issued: April 8, 1993, Revised: March 2, 1995, as applicable. This incorporation by reference is 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 Field Support Engineering, Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9180) becomes effective on April 17, 1995.

Issued in Kansas City, Missouri, on March 17, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–7113 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–AGL–23]

Establishment of Class D Airspace; Akron-Canton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace designation of the Akron-Canton, OH Class D airspace area legal description published in a final rule on February 23, 1995, (60 FR 10014) establishing Class D airspace for Akron-Canton Regional Airport, Akron, OH.

EFFECTIVE DATE: 0901 UTC, May 25, 1995.

FOR FURTHER INFORMATION CONTACT:

Nancy Cibic, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7573.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 95–4439, published on February 23, 1995 (60 FR 10014), established Class D airspace for Akron-Canton Regional Airport, Akron, Ohio. The Class D surface and radius area indicated in the legal description were published incorrectly. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for Akron, Ohio, Class D airspace, as published in the **Federal Register** on February 23, 1995, (60 FR 10014), (Federal Register Document 95–4439, page 10014, column 2), is corrected in the final rule to the incorporation by reference 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

Paragraph 5000 General

* * * * *

AGL OH D Akron-Canton, OH [Corrected]

(Lat. 40°54′59″N., long. 81°26′32″W.)

That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Akron-Canton Regional Airport, OH. 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 published in the Airport Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–7498 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 777

[Docket No. 930653–4299]

RIN 0694–AA70

Exports of Certain California Crude Oil

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the short supply provisions of the Export Administration Regulations (EAR) by revising the restrictions on exports of crude oil produced in the lower 48 states to allow exports, under individual validated licenses, of up to 25,000 barrels per day (MB/D) of California heavy crude oil having a gravity of 20.0 degrees API or lower.

This final rule revises the licensing requirements and procedures that apply to exports of California heavy crude oil by removing a number of significant restrictions, *e.g.*, the prohibition against transporting crude oil by pipeline over rights-of-way granted pursuant to the Mineral Leasing Act of 1920 and the requirement that any export of crude oil must be offset by importing an equal or greater volume of crude oil of equal or higher quality.

In order to minimize procedural delays in licensing exports of California heavy crude oil, BXA's Office of Chemical and Biological Controls and Treaty Compliance (CBTC) will issue licenses on a first-come, first-served, basis. Based on comments received on the March 24, 1994, proposed rule, this rule allows CBTC to issue licenses contingent upon the exporter submitting, prior to any export under a license, documentation showing that the exporter has title to the oil (or a contract to purchase the oil) and a contract to export the oil. This change in documentation requirements should provide exporters with greater flexibility in completing small cargo transactions on the spot market. Such transactions are likely to account for the bulk of California heavy crude oil exports.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Chemical and Biological Controls and Treaty Compliance (CBTC), Bureau of Export Administration, Telephone: (202) 482–0894.

SUPPLEMENTARY INFORMATION:

Background

Section 777.6(d)(1) of the Export Administration Regulations (EAR) restricts exports of crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil. This rule amends § 777.6(d)(1) to permit exports of certain California crude oil pursuant to a Presidential memorandum of October 22, 1992,[1] in which the President determined that exports of California heavy crude oil having a gravity of 20.0 degrees API or lower were in the national interest. Prior to authorizing the export of this California crude oil, the President made certain findings and determinations under the following statutes:

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212(b));

(2) Section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); and

(3) The provisions of the Export Administration Act of 1979 (EAA), as amended, to the extent permitted with law, continued in effect after its August 20, 1994, expiration through the President's invocation of the International Emergency Economic Powers Act in Executive Order 12924 of August 19, 1994.

The President made findings that exports of California heavy crude oil having a gravity of 20.0 degrees API or lower:

(1) Are in accordance with the provisions of the Export Administration Act of 1979, as amended;

(2) Are consistent with the purpose of the Energy Policy and Conservation Act; and

(3) Will not diminish the total quality or quantity of petroleum available to the United States.

Based on the above findings, the President authorized the Secretary of Commerce to modify the existing restrictions on the export of crude oil produced in the lower 48 states to allow initially the export of an average quantity of 25 MB/D of California heavy crude oil having a gravity of 20.0 degrees API or lower.

[1] The President's memorandum of October 22, 1992, was published in the **Federal Register** Vol. 57, No. 226, November 23, 1992, p. 54895.

The President also directed the Secretary of Energy, in consultation with the Secretaries of Commerce, the Interior, Transportation, and other interested agencies, to conduct periodic reviews of such exports in light of then-existing market circumstances. In addition, the President authorized the Secretary of Energy to recommend to the Secretary of Commerce, based on the results of these periodic reviews, what, if any, adjustments should be made in the quantity of California heavy crude oil that may be authorized for export (*i.e.*, adjustments to the currently authorized level of 25 MB/D).

Publication of Proposed Rule (March 24, 1994)

In response to the President's decision, the Department published a proposed rule and request for public comments in the **Federal Register** on March 24, 1994 (59 FR 13900). The proposed rule would have allowed the CBTC to authorize exports of up to 25 MB/D of California heavy crude oil having a gravity of 20.0 degrees API or lower. The March 24 rule proposed that CBTC would grant export licenses on a first-come, first-served, basis with the quantity authorized on any one license not to exceed 25 percent (2.28 million barrels) of the annual authorized volume (*i.e.*, 9.125 million barrels). The proposed rule would have allowed CBTC to approve only one application per month from each company and its affiliates, as long as applications from non-affiliated companies were still pending. In addition, the validity period for licenses would have been 90 days; and CBTC would have returned to the available authorized export quota any volumes that had been licensed but not exported during the 90-day validity period, except that no unshipped volumes would have been carried over more than 30 days into a new calendar year. Any unlicensed portion of the quota would have been carried forward by CBTC from month to month, except that no volumes would have been carried forward more than 30 days into a new calendar year. The proposed rule would have allowed exporters a 10-percent tolerance on the unshipped balance based on the number of barrels authorized on the license, as well as a 25-percent tolerance on the total dollar value of the license.

Applicants would have been subject to a number of documentation requirements under the proposed rule: (1) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application; (2) a contract to export the quantity of barrels stated in the application; (3) documentation showing that the crude oil has a gravity of 20.0 degrees API or lower and was produced within the state of California; and (4) an affidavit that the crude oil was not produced or derived from a U.S. Naval Petroleum Reserve and was not produced from the submerged lands of the U.S. Outer Continental Shelf.

Finally, the proposed rule solicited public comments on three possible license allocation schemes: (1) The first-come, first-served licensing scheme described in the proposed rule; (2) a prorationing scheme similar to the one used for exports of Alaskan North Slope crude oil to Canada; and (3) a licensing scheme employing pre-qualification with export nominations.

Public Comments on the Proposed Rule

The Bureau of Export Administration (BXA) received seven comments on the March 24, 1994, proposed rule. One commenter opposed allowing exports of up to 25 MB/D of California heavy crude oil, asserting that this change would provide little or no economic benefits for California crude oil producers and would likely result in price increases in the domestic fuel market. Two commenters had no objections to allowing the export of an average of 25 MB/D of California heavy crude oil, but urged the Department not to increase this level without a formal public rulemaking.

One commenter felt that the 25 MB/D average was quite small relative to the potential marketable oil and suggested that state and local governmental entities should be exempted from this limit. This commenter expressed no preference concerning the method by which licenses would be allocated and noted that the rule probably would not have a significant impact on inland producers because many of them lacked access to heated oil pipelines to transport crude oil to export terminals.

Two commenters urged BXA to drop the proposed requirement that applicants provide documentation showing the existence of a contract to export California heavy crude oil, because this requirement would make it difficult for companies to complete small cargo transactions on the spot market. One alternative that was suggested would permit applicants to submit one application per quarter, for cargoes not exceeding 500,000 barrels, to be supported by nonbinding letters of intent, instead of a signed contract.

Several alternative licensing regimes were suggested. One commenter suggested two alternative regimes. Under the first alternative, applicants would be allowed to identify potential

supply sources and end-users, subject to approval by BXA, and would then be allowed to make shipments involving these approved parties, providing proof of compliance and performance to BXA after each shipment. The second alternative would involve the issuance of two types of licenses: (1) short-term (30- to 90-day) licenses not exceeding 500,000 barrels, with unused portions returned to the available quota, and (2) longer term (6- to 12-month) licenses of 1 to 2 million barrels, with up to half the amount returned to the available quota if no shipment is made within 3 months. This commenter also urged that applicants be allowed to apply for licenses several months in advance of the effective date. Finally, the commenter suggested that licensees who fail to make any shipments under their licenses be given a lower priority when filing applications for subsequent licenses.

Another commenter suggested an alternative licensing regime that would involve a prorationing mechanism with a validity period of not less than 1 year and a minimum quantity of 500,000 barrels. This commenter also favored eliminating the one application per month limitation and removing the 25 MB/D cap on exports.

Finally, one commenter urged the Commerce Department to work toward eliminating export restrictions on California heavy crude oil produced from the submerged lands of the U.S. Outer Continental Shelf and, as part of this action, increase the proposed gravity limit from 20 degrees API to 22 degrees API.

Changes Made by This Final Rule

The Department reviewed the public comments on the March 24, 1994, proposed rule and decided to retain, for the most part, the licensing regime contained in that rule (*i.e.*, first-come, first served). However, the Department recognizes that a number of concerns were raised in the public comments on the proposed rule and, where practical, has made changes in this final rule to address these concerns.

This final rule makes certain significant changes in the documentation requirements for license applications to export California heavy crude oil. These changes are based on the Department's review of the public comments on the proposed rule, its consultations with industry representatives familiar with the California heavy crude oil export market, and its review of certain in-house data on actual shipments of California heavy crude oil under validated export licenses. The documentation requirements in the proposed rule specified that each application must be accompanied by: (1) a contract or bill of sale, showing title to the crude oil, and (2) a contract to export the crude oil. Several commenters felt that this requirement would make it difficult for companies to complete small cargo transactions on the spot market, noting that the timeframe for completing small cargo transactions can be very short and that a limited window of opportunity could be missed if proof of a contract had to be obtained before an export license could be issued. These commenters also noted that the negative effects of the prior proof of contract requirement could be quite significant because the bulk of California heavy crude oil exports are spot market transactions.

Because of the unique characteristics of the California heavy crude oil export market (most sales consist of small spot market transactions), the Department decided to modify the proof of contract requirement. This final rule requires that each application be accompanied by documentary evidence of an order as described in § 772.6(a)(2), such as a letter of intent. Although this final rule does not require proof of a contract at the time an application is submitted, all licenses to export California heavy crude oil will be subject to the condition that the licensee submit to the CBTC, prior to any export under the license, documentation proving that the licensee has: (1) title to the quantity of barrels stated in the application and (2) a contract to export the quantity stated on the application. This change will provide applicants with greater flexibility to engage in spot market transactions. Applicants will be able to obtain export licenses more quickly, since they will not have to wait until they have a firm contract to submit their applications. They also will have additional time in which to obtain proof of a contract, since they are only required to submit such proof to CBTC at some point prior to the time of export.

To encourage applicants to apply for a validated license only when they have a real opportunity to make an export sale, this final rule requires CBTC to consider the following factors when determining what action should be taken on individual applications:

(1) The number of validated licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the current calendar year;

(2) The number of applications pending in CBTC that have been submitted by applicants who have not been issued validated licenses to export California heavy crude oil during the current calendar year; and,

(3) The percentage of California heavy crude oil authorized under export licenses previously issued to the applicant that has actually been exported by the applicant.

Another significant change in documentation requirements involves the affidavit requirement contained in § 777.6(d)(1)(xii) of the proposed rule. This requirement has been replaced in the final rule by a certification requirement, *i.e.*, the applicant is required to certify that: (1) the commodity has a gravity of 20.0 degrees API or lower; (2) the commodity is produced in the state of California; (3) the commodity is *not* produced or derived from a U.S. Naval Petroleum Reserve; and (4) the commodity is *not* produced from the submerged lands of the U.S. Outer Continental Shelf.

The Department decided to retain the first-come, first-served, mechanism that was proposed in the March 24, 1994, rule because it provides a greater degree of flexibility and administrative simplicity than the prorationing and pre-qualification licensing alternatives that also were described in the proposed rule. Under the first-come, first-served licensing regime adopted in this final rule, CBTC will accept only one application per month from each company and its affiliates (regardless of whether or not applications from non-affiliated companies are pending) for a total quantity not to exceed 25 percent (2.28 million barrels) of the annual (9.125 million barrels) authorized volume of California heavy crude oil. CBTC will issue licenses in the order in which it receives applications, with all licenses having the same validity period, *i.e.*, 90 calendar days. The Department considered establishing a longer validity period, but felt that the 90-day term provided the best compromise between the needs of spot market applicants and applicants anticipating larger volume transactions covering a longer term. Since licensees are permitted to wait until immediately prior to making shipments under their licenses before providing CBTC with documentation showing proof of title and a contract to export, the Department felt that the 90-day license term was necessary to ensure that no applicant would tie up large volumes of California heavy crude oil for a significant period of time (e.g., for six months to a year), without having received a firm contract offer, thereby denying commercial opportunities to other applicants.

This final rule also implements the provisions of the proposed rule concerning: (1) volumes that have not

been licensed for export and (2) licensed volumes that have not been exported prior to the expiration date of the license. CBTC will carry forward any portion of the 25,000 barrel per day quota that has not been licensed and will return to the available authorized quota any portion that has been licensed, but not shipped, within the 90-day validity period of the license, except that these volumes will not be carried over more than 30 days into a new calendar year. This approach will ensure that the total volume available for export in any one year does not significantly exceed the annual (9.125 million barrels) authorized volume of California heavy crude oil. If market conditions dictate that an adjustment should be made in the annual authorized volume, the Secretary of Energy is authorized to recommend that the Secretary of Commerce make the necessary adjustment.

Consistent with the March 24, 1994, proposed rule, this final rule allows licensees to combine authorized quantities into one or more shipments, provided that the validity period of none of the affected licenses has expired. In addition, this rule retains the shipping tolerances set forth in the proposed rule, *i.e.*, a 10-percent tolerance on the unshipped balance (based on the number of barrels authorized on the license) and a 25-percent tolerance on the total dollar value of the license. This final rule also prohibits licensees from transferring their licenses to other parties without prior written authorization from CBTC, in accordance with § 772.13.

The Department considered the effect on the environment of exports of California heavy crude oil in its 1989 ''Report to Congress on U.S. Crude Oil Exports'' which recommended the liberalization of export restrictions resulting in the 1992 Presidential determination. The Department also conducted an assessment in connection with the approval of an export license application during 1991. In both cases, the Department determined that the export of California heavy crude would not have a significant impact on the environment.

The Department completed an assessment of the environmental affects of the export of California crude oil in connection with the present rulemaking. The assessment confirmed the previous findings that the export would not have a significant impact on the environment. On October 12, 1994, the National Oceanic and Atmospheric Administration (NOAA) approved the assessment, including the conclusion that exports of California heavy crude oil will not have a significant impact on the human environment in accordance with the Council on Environmental Quality's regulations implementing the National Environmental Protection Act. The environmental assessment is available for public inspection in Room H–4513.

Rulemaking Requirements

1. This rule was determined to be significant for the purposes of Executive Order 12866.

2. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The public reporting burden for this collection of information is estimated to average 12 hours per response, including the time required for reviewing instructions, searching and maintaining the necessary data, and completing and reviewing the collection of information. Send comments regarding this burden to: Bernard Kritzer, Manager, Short Supply Program, Office of Chemical and Biological Controls and Treaty Compliance, Room 2096, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (ATTN: Paperwork Reduction Project—0694–0027).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. A notice of proposed rulemaking and an opportunity for public comment were not required for this rulemaking by section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (1991, Supp. 1993), and Pub. L. No. 103–277, July 5, 1994). Although the Export Administration Act expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and determined that, to the extent permitted by law, the provisions of the Export Administration Act shall be carried out under Executive Order 12924 of August 19, 1994, so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration Regulations and Act. As such, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has been or will be prepared.

List of Subjects in 15 CFR Part 777

Administrative practice and procedure, Exports, Forest and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, Part 777 of the Export Administration Regulations (15 CFR Parts 730–799) is amended as follows:

1. The authority citation for 15 CFR Part 777 continues to read as follows:

Authority: Pub. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993), and E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994).

PART 777—[AMENDED]

2. Section 777.6 is amended by adding a new paragraph (d)(1)(xii) and a new paragraph (k) to read as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(xii) *Exports of certain California crude oil.* California heavy crude oil may be exported under the following conditions:

(A) The applicant certifies that:

(*1*) The commodity has a gravity of 20.0 degrees API or lower;

(*2*) The commodity is produced in the state of California, including its submerged state lands;

(*3*) The commodity is *not* produced or derived from a U.S. Naval Petroleum Reserve;

(*4*) The commodity is *not* produced from the submerged lands of the U.S. Outer Continental Shelf;

(B) All aspects of the transaction comply with the provisions of paragraph (k) of this section.

* * * * *

(k) *Exports of certain California crude oil pursuant to § 777.6(d)(1)(xii).* The

export of California heavy crude oil having a gravity of 20.0 degrees API or lower, at an average volume not to exceed 25 MB/D, will be authorized as follows.

(1) Applicants must submit their applications on Form BXA–622P to the following address: Office of Exporter Services, ATTN: Short Supply Program—Petroleum, Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

(2) The quantity stated on each application must be the total number of barrels proposed to be exported under the license—not a per-day rate. This quantity must not exceed 25 percent of the annual authorized export quota. Potential applicants may inquire of BXA as to the amount of the annual authorized export quota available.

(3) Each application shall be accompanied by a certification by the applicant that the California heavy crude oil:

(i) Has a gravity of 20.0 degrees API or lower;

(ii) Was produced within the state of California, including its submerged state lands;

(iii) Was *not* produced or derived from a U.S. Naval Petroleum Reserve; *and*

(iv) Was *not* produced from submerged lands of the U.S. Outer Continental Shelf.

(4) Each license application must be based on an order, as defined by § 772.6(a) of this subchapter and must be accompanied by documentary evidence of an order as described in § 772.6(a)(2), e.g., a letter of intent.

(5) The Office of Chemical and Biological Controls and Treaty Compliance (CBTC) will adhere to the following procedures for licensing exports of California heavy crude oil:

(i) CBTC will issue individual validated licenses for approved applications in the order in which the applications are received (date-time stamped upon receipt by CBTC), with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil.

(ii) CBTC will approve only one application per month for each company and its affiliates.

(iii) CBTC will consider the following factors (among others) when determining what action should be taken on individual license applications:

(A) The number of validated licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the then-current calendar year;

(B) The number of applications pending in CBTC that have been submitted by applicants who have not previously been issued validated licenses under this section to export California heavy crude oil during the then-current calendar year; and,

(C) The percentage of the total amount of California heavy crude oil authorized under other export licenses previously issued to the applicant pursuant to this section that has actually been exported by the applicant.

(iv) CBTC will approve applications contingent upon the licensee providing documentation meeting the requirements of both paragraphs (k)(5)(iv) (A) and (B) of this section prior to any export under the license:

(A) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application. Such documentation shall be either:

(*1*) An accepted contract or bill of sale for the quantity of barrels stated in the application; *or*

(*2*) A contract to purchase the quantity of barrels stated in the application, which may be contingent upon issuance of an export license to the applicant.

(B) Documentation showing that the applicant has a contract to export the quantity of barrels stated in the application. The contract which may be contingent upon issuance of the export license to the applicant.

(v) CBTC will carry forward any portion of the 25 MB/D quota that has not been licensed, *except that* no unallocated portions will be carried forward more than 90 days into a new calendar year. Applications to export against any carry forward must be filed with CBTC by January 15 of the carry-forward year.

(vi) CBTC will return to the available authorized export quota any portion of the 25 MB/D per day quota that has been licensed, but not shipped, during the 90-day validity period of the license.

(vii) CBTC will *not* carry over to the next calendar year pending applications from the previous year.

(6) License holders:

(i) Have 90 calendar days from the date the license was issued to export the quantity of California heavy crude oil authorized on the license. Within 30 days of any export under the license, the exporter must provide CBTC with a certified statement confirming the date and quantity of California heavy crude oil exported.

(ii) Must submit to CBTC, prior to any export under the license, the documentation required by paragraph (k)(5)(iv) of this section.

(iii) May combine authorized quantities into one or more shipments, *provided that* the validity period of none of the affected licenses has expired.

(iv) Are prohibited from transferring the license to another party without prior written authorization from CBTC in accordance with § 772.13 of this subchapter.

(7) CBTC will allow, pursuant to § 786.7(c) of this subchapter, a 10-percent tolerance on the unshipped balance based upon the volume of barrels it has authorized. CBTC will allow a 25-percent shipping tolerance on the total dollar value of the license.

Dated: March 22, 1995.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 95–7525 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–DT–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–35483A]

Organization and Program Management; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published on Monday, March 20, 1995 (60 FR 14622). The rule updated the Commission's rules on organization and program management.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, (202) 942–4525.

SUPPLEMENTARY INFORMATION:

Background

The Commission has undertaken a comprehensive review of the rules governing its organization and program management. The final rule that is the subject of this correction results from that review.

Need for Correction

As published, the final rule describes in the section entitled ''Supplementary Information'' certain amendments that, while approved by the Commission,

were inadvertently omitted from the Text of Amendments.

Correction of Publication

Accordingly, the publication on March 20, 1995 of the final rule [Release No. 34–35483], which was the subject of FR Doc. 95–6696, is corrected as follows:

§ 200.30–5 [Amended]

1. On Page 14628, in the third column, amendatory instruction 31a is added to read as follows: ''31a. Section 200.30–5 is amended by removing paragraph (f)(5) and redesignating paragraphs (f)(6), (f)(7), (f)(8) and (f)(9) as paragraphs (f)(5), (f)(6), (f)(7) and (f)(8).''

Dated: March 21, 1995.

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 95–7394 Filed 3–24–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 1958–95]

Authority of United States Attorneys To Compromise and Close Civil Claims

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule increases the United States Attorneys' settlement authority in civil matters. It also inserts appropriate references to the Associate Attorney General as an official with certain decisionmaking authority and to whom certain reports are to be made. This rule is being promulgated to increase Department efficiency.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Juliet A. Eurich, Legal Counsel, Executive Office for U.S. Attorneys, Department of Justice, Main Building, Room 1643, 10th & Pennsylvania Avenue NW., Washington, DC 20530; telephone (202) 514–4024.

SUPPLEMENTARY INFORMATION: In subpart Y of 28 CFR part 0, the Attorney General has delegated to the various Assistant Attorneys General certain of her authority to compromise and close civil claims. Section 0.168(d) authorizes the various Assistant Attorneys General to redelegate certain of that authority to United States Attorneys. They have done so in various directives reprinted as appendices to subpart Y.

This rule increases the dollar value of claims that may be settled by United States Attorneys. This change is occasioned in part by the increase in the value of the claims brought by and against the United States.

This rule also inserts appropriate references to the Associate Attorney General as an official with certain decisionmaking authority in this area and to whom certain reports are to be made.

This rule furthers the efficient operation of the Department of Justice and advances the goals of civil justice reform and alternative dispute resolution.

As a regulation related to internal Department of Justice management, this rule may become effective without provision for public comment pursuant to 5 U.S.C. 553(b)(A). This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, it has not been reviewed by the Office of Management and Budget. Pursuant to 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small business entities.

List of Subjects in 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

For the reasons set forth in the preamble, subpart Y of part 0 of chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority To Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Section 0.160 is revised to read as follows:

§ 0.160 Offers that may be accepted by Assistant Attorneys General.

(a) Subject to the limitations set forth in paragraph (c) of this section, Assistant Attorneys General are authorized, with respect to matters assigned to their respective divisions, to:

(1) Accept offers in compromise of claims asserted by the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $2,000,000 or 15 percent of the original claim, whichever is greater;

(2) Accept offers in compromise of, or settle administratively, claims against the United States in all cases in which the principal amount of the proposed settlement does not exceed $2,000,000; and

(3) Accept offers in compromise in all nonmonetary cases.

(b) Subject to the limitations set forth in paragraph (c) of this section, the Assistant Attorney General, Tax Division, is further authorized to accept offers in compromise of, or settle administratively, claims against the United States, regardless of the amount of the proposed settlement, in all cases in which the Joint Committee on Taxation has indicated that it has no adverse criticism of the proposed settlement.

(c) Any proposed settlement, regardless of amount or circumstances, must be referred to the Deputy Attorney General or the Associate Attorney General, as appropriate:

(1) When, for any reason, the compromise of a particular claim would, as a practical matter, control or adversely influence the disposition of other claims and the compromise of all the claims taken together would exceed the authority delegated by paragraph (a) of this section; or

(2) When the Assistant Attorney General concerned is of the opinion that because of a question of law or policy presented, or because of opposition to the proposed settlement by a department or agency involved, or for any other reason, the proposed settlement should receive the personal attention of the Deputy Attorney General or the Associate Attorney General, as appropriate;

(3) When the proposed settlement converts into a mandatory duty the otherwise discretionary authority of a department or agency to promulgate, revise, or rescind regulations;

(4) When the proposed settlement commits a department or agency to expend funds that Congress has not appropriated and that have not been budgeted for the action in question, or commits a department or agency to seek particular appropriation or budget authorization; or

(5) When the proposed settlement otherwise limits the discretion of a department or agency to make policy or managerial decisions committed to the department or agency by Congress or by the Constitution.

3. Section 0.161 is revised to read as follows:

§ 0.161 Acceptance of certain offers by the Deputy Attorney General or Associate Attorney General, as appropriate.

(a) In all cases in which the acceptance of a proposed offer in compromise would exceed the authority delegated by § 0.160, the Assistant Attorney General concerned shall, when he is of the opinion that the proposed offer should be accepted, transmit his recommendation to that effect to the Deputy Attorney General or the Associate Attorney General, as appropriate.

(b) The Deputy Attorney General or the Associate Attorney General, as appropriate, is authorized to exercise the settlement authority of the Attorney General as to all claims asserted by or against the United States.

4. Section 0.164 is revised to read as follows:

§ 0.164 Civil claims that may be closed by Assistant Attorneys General.

Assistant Attorneys General are authorized, with respect to matters assigned to their respective divisions, to close (other than by compromise or by entry of judgment) claims asserted by the United States in all cases in which they would have authority to accept offers in compromise of such claims under § 0.160(a), except:

(a) When for any reason, the closing of a particular claim would, as a practical matter, control or adversely influence the disposition of other claims and the closing of all the claims taken together would exceed the authority delegated by this section; or

(b) When the Assistant Attorney General concerned is of the opinion that because of a question of law or policy presented, or because of opposition to the proposed closing by the department or agency involved, or for any other reason, the proposed closing should receive the personal attention of the Attorney General, the Deputy Attorney General or the Associate Attorney General, as appropriate.

5. Section 0.165 is revised to read as follows:

§ 0.165 Recommendations to the Deputy Attorney General or Associate Attorney General, as appropriate, that certain claims be closed.

In all cases in which the closing of a claim asserted by the United States would exceed the authority delegated by §§ 0.160(a) and 0.164, the Assistant Attorney General concerned shall, when he is of the opinion that the claim should be closed, transmit his recommendation to that effect, together with a report on the matter, to the Deputy Attorney General or the Associate Attorney General, as appropriate, for review and final action. Such report shall be in such form as the Deputy Attorney General or the Associate Attorney General may require.

6. Section 0.168 is revised to read as follows:

§ 0.168 Redelegation by Assistant Attorneys General.

(a) Assistant Attorneys General are authorized, with respect to matters assigned to their respective divisions, to redelegate to subordinate division officials and United States Attorneys any of the authority delegated by §§ 0.160 (a) and (b), 0.162, 0.164, and 0.172(b), except that any disagreement between a United States Attorney or other Department attorney and a client agency over a proposed settlement that cannot be resolved below the Assistant Attorney General level must be presented to the Assistant Attorney General for resolution.

(b) Redelegations of authority under this section shall be in writing and shall be approved by the Deputy Attorney General or the Associate Attorney General, as appropriate, before taking effect.

(c) Existing delegations and redelegations of authority to subordinate division officials and United States Attorneys to compromise or close civil claims shall continue in effect until modified or revoked by the respective Assistant Attorneys General.

(d) Subject to the limitations set forth in § 0.160(c) and paragraph (a) of this section, redelegations by the Assistant Attorneys General to United States Attorneys may include the authority to:

(1) Accept offers in compromise of claims asserted by the United States in all cases in which the gross amount of the original claim does not exceed $5,000,000 and in which the difference between the original claim and the proposed settlement does not exceed $1,000,000; and

(2) Accept offers in compromise of, or settle administratively, claims against the United States in all cases in which the principal amount of the proposed settlement does not exceed $1,000,000.

Dated: March 21, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–07460 Filed 3–24–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Texas Permanent Regulatory Program

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

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve, with certain additional requirements, a proposed amendment to the Texas permanent regulatory program (hereinafter, the Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consisted of changes to Texas' existing rules pertaining to identification of interests and compliance information, review of permit applications, criteria for permit approval or denial, and Railroad Commission of Texas (Commission) review of outstanding permits. The amendment was intended to revise the Texas program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the Texas program and program amendments are codified at 30 CFR 943.15 and 943.16.

II. Proposed Amendment

By letter dated May 24, 1994 (Administrative Record No. TX–576), Texas submitted to OSM a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to the required amendments codified at 30 CFR 943.16

(c) (1) and (2), (d), (f), (j) (1), (2), (3), and (4), (r), and (s) (59 FR 13200, March 21, 1994). The provisions of the Texas Coal Mining Regulations (TCMR) at 16 Texas Administrative Code (TAC) 11.221 and of the Texas Surface Coal Mining and Reclamation Act (TSCMRA) at Article 5920–11 of the Texas Revised Civil Statutes Annotated that Texas proposed to amend were: TCMR 778.116(m), identification of interests and compliance information; TCMR 786.215 (e)(1) and (f), review of permit applications; TCMR 786.216 (i) through (o), criteria for permit approval or denial; TCMR 788.225 (f) through (i), commission review of outstanding permits; and section 21(c) of TSCMRA, reporting notices of violations in permit applications.

OSM announced receipt of the proposed amendment in the June 30, 1994, **Federal Register** (59 FR 33705), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. TX–576.07). Because no one requested a public hearing or meeting, none was held.

The public comment period ended August 1, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of Texas' regulations and statute at TCMR 778.116(m), identification of interests and compliance information; TCMR 786.215(e)(1), review of permit applications; TCMR 788.225(g), Commission review of outstanding permits; and section 21(c) of TSCMRA, reporting notices of violations in permit applications. OSM notified Texas of the concerns by letter dated August 11, 1994 (Administrative Record No. TX–576.12).

Texas responded in a letter dated October 6, 1994, by submitting a revised amendment (Administrative Record No. TX–576.13). Texas proposed further revisions to TCMR 778.116(m), identification of interests and compliance information; TCMR 786.215(e)(1), review of permit applications; and TCMR 788.225(g), Commission review of outstanding permits. Texas also proposed to recodify previously proposed TCMR 788.225 (h) and (i), respectively, as TCMR 788.226(g)(2) and (h). Texas also stated that it was not, at this time, proposing any formal program amendment pertaining to section 21(c) of TSCMRA. Therefore, OSM considers section 21(c) of TSCMRA to be withdrawn from consideration in this amendment, and the required amendment at 30 CFR 943.16(r) remains outstanding.

Based upon the revisions to the proposed program amendment submitted by Texas, OSM reopened the public comment period in the October 27, 1994, **Federal Register** (59 FR 53949, Administrative Record No. TX–576.20). The public comment period ended November 14, 1994.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with two additional requirements, that the proposed regulation revisions submitted by Texas on May 24, 1994, and as further revised on October 6, 1994, are consistent with the corresponding provisions of the Federal regulations. Accordingly, the Director approves the proposed regulation revisions.

In taking this action, the Director notes that, effective November 28, 1994, OSM revised the Federal regulations at 30 CFR Parts 701, 773, 778, 840, and 843 pertaining to the applicant/violator computer system (AVS) and procedures for ownership and control determinations (59 FR 54306, October 28, 1994). Also, effective November 28, 1994, the Office of Hearings and Appeals revised related Federal regulations at 43 CFR part 4, subpart L, pertaining to special rules applicable to surface coal mining hearings and appeals (59 FR 54356, October 28, 1994). By letter dated January 18, 1995, OSM notified Texas of these revisions to the Federal regulations (Administrative Record No. TX–585). The Director's action in this amendment does not relieve Texas from the need to further amend its regulations to comply with other provisions in the revised Federal regulations. When OSM determines which Texas regulation provisions pertaining to AVS and ownership and control must be amended to be no less effective than the revised Federal regulations, it will notify Texas in accordance with 30 CFR 732.17(d).

1. Nonsubstantive Revisions to Texas' Regulations

Texas proposed to recodify its previously-approved right of appeal regulation at TCMR 788.225(g) (corresponding Federal regulation at 30 CFR 773.21) as TCMR 788.225(h).

Because the proposed recodification of this previously-approved regulation is nonsubstantive in nature, the Director finds that this proposed recodification is not inconsistent with SMCRA or the Federal regulations. The Director approves this proposed recodification.

2. Substantive Revisions to Texas' Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

In response to the required amendments at 30 CFR 943.16(j)(1) through (3) (finding No. 4(b), 59 FR 13200, 13205, March 21, 1994), Texas proposed revisions to the following regulations that are substantive in nature and contain language that is substantively identical to the corresponding Federal regulation provisions (listed in parentheses).

TCMR 788.225(f) (3) and (4) (30 CFR 773.20(c)(1)(iii) and (iv)), remedial measures,

TCMR 788.225(g) and (g)(1) (i) through (iv) (30 CFR 773.21 and 773.21(a)(1) through (4)), rescission procedures, and

TCMR 788.225(g)(2) (30 CFR 773.21(b), cessation of operations.

Because these proposed revisions to Texas' regulations are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective in meeting SMCRA's requirements than the corresponding provisions of the Federal regulations. The Director approves these regulation revisions and removes the required amendments at 30 CFR 943.16(j)(1) through (3).

3. TCMR 778.116(m), Identification of Interests and Compliance Information

In response to the required amendments at 30 CFR 943.16(c)(1) and (2) (finding No. 2, 59 FR 13200, 13201–13203, March 21, 1994), Texas proposed to revise TCMR 778.116(m) to require that a permit application must include,

> For any violations of a provision of the Act, Federal Act *and its implementing Federal regulations and all Federal and state programs under the Federal Act*, or of any law, rule or regulation of the United States, or of any [State] *state* law, rule or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection * * * a list of all violation notices received by the applicant during the three year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application * * *.

Texas proposed to add the italicized language and to delete the bracketed language.

The corresponding Federal regulations at 30 CFR 778.14(c), through the Federal definition of ''violation notice'' at 30 CFR 773.5, require that a permit application must include information on violation notices received pursuant to SMCRA, SMCRA's implementing Federal regulations, a

State program, or any Federal or State law, rule, or regulation pertaining to air or water environmental protection.

At TCMR 700.003(1), Texas defines the term ''Act'' to mean the ''Texas Surface Coal Mining Control and Reclamation Act'' and at TCMR 700.003(10) defines the term ''Federal Act'' to mean the ''Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).'' Therefore, when Texas requires, at proposed TCMR 778.116(m), that a permit application include information ''for any violations of a provision of the Act, Federal Act and its implementing Federal regulations and all Federal * * * programs approved under the Federal Act,'' it requires a permit application to include information regarding violations of TSCMRA, SMCRA, SMCRA's implementing regulations, and SMCRA-approved Federal programs (OSM–administered Indian lands program and Federal programs for States).

Furthermore, in a previously proposed and approved amendment (Administrative Record No. TX–562), Texas stated that the word ''State,'' when capitalized, refers to Texas and, when uncapitalized, refers to all States within the United States of America. Therefore, where Texas requires, at proposed TCMR 778.116(m), information for ''violations of a provision of * * * all * * * state programs approved under the Federal Act,'' it requires a permit application to include information regarding violations of all SMCRA-approved State programs, not just the Texas program.

Likewise, where proposed TCMR 778.116(m) requires information on violations ''of any state law, rule or regulation enacted pursuant to Federal law, rule or regulation pertaining to air or water environmental protection,'' it requires a permit application to include information regarding violations of a law, rule or regulation of any State, including Texas, enacted pursuant to Federal law, rule or regulation pertaining to air or water environmental protection. However, the corresponding Federal regulations at 30 CFR 778.14(c), through the definition of ''violation notice'' at 30 CFR 773.5, require information on violation notices of all State laws, rules, and regulations pertaining to air or water environmental protection, not just those enacted pursuant to Federal law, rule, or regulation.

Because proposed TCMR 778.116(m) limits the information about violation notices required in a permit applications to violations of those State laws, rules, and regulations pertaining to air or water environmental protection that are enacted pursuant to Federal law, rule, or regulation, the Director finds that proposed TCMR 778.116(m) is less effective in meeting SMCRA's requirements than the corresponding provisions of the Federal regulation at 30 CFR 778.14(c). Therefore, the Director requires Texas to further revise TCMR 778.116(m) to require a permit application to include information on all violations of any State law, rule or regulation that pertains to air or water environmental protection, not just those violations that were enacted pursuant to Federal law, rule, or regulation. Otherwise, for the reasons discussed above, the Director approves the proposed addition of the phrase ''and its implementing Federal regulations and all Federal and state programs under the Federal Act'' and the use of the word ''state,'' uncapitalized, in place of the word ''State'' capitalized, and removes the required amendments at 30 CFR 943.16(c) (1) and (2).

4. TCMR 786.215 (e)(1), and (f), and 786.216(i), Review of Permit Application

(a) *TCMR 786.215(e)(1).* In response to the required amendment at 30 CFR 943.16(d), Texas proposed to revise TCMR 786.215(e)(1) to require the Commission to consider, as a basis for permit denial, information on ''state'' failure-to-abate cessation orders and unabated imminent harm cessation orders (finding No. 3(a), 59 FR 13200, 13202, March 21, 1994).

Texas proposed to revise TCMR 786.215(e)(1) by inserting the word ''state,'' uncapitalized, in place of ''State,'' capitalized. As discussed in finding No. 3, Texas stated in a previously proposed and approved amendment (Administrative Record No. TX–562) that the word ''State,'' when capitalized, refers to Texas and, when uncapitalized, refers to all States within the United States of America. Thus, where proposed TCMR 786.215(e)(1) requires the Commission to consider information on ''state'' failure-to-abate cessation orders and unabated ''state'' imminent harm cessation orders, it means cessation order and violation notices incurred in all States, including those incurred in Texas.

The corresponding Federal regulations at 30 CFR 773.15(b)(1), through the definition of ''violation notice'' at 30 CFR 773.5, require, in part, that the regulatory authority consider information on State failure-to-abate cessation orders and unabated State imminent harm cessation orders incurred in all States, not just those incurred in the State where the application is submitted.

Because revised TCMR 786.215(e)(1) requires, as does the Federal regulation at 30 CFR 773.15(b)(1), that the State regulatory authority consider, as a basis for permit denial, cessation orders incurred by a permit applicant in all States, the Director finds that the proposed revisions to TCMR 786.215(e)(1) are no less effective in meeting SMCRA's requirements than the corresponding provisions of the Federal regulation at 30 CFR 773.15(b)(1). The Director approves the proposed use of the word ''state,'' uncapitalized, in place of the word ''State,'' capitalized, at TCMR 786.215(e)(1) and removes the required amendment at 30 CFR 943.16(d).

(b) *TCMR 786.215(f).* In response to the required amendment at 30 CFR 943.16(f) (finding No. 3(b), 59 FR 13200, 13203, March 21, 1994), Texas proposed to revise TCMR 786.215(f) to require, in part, that,

> Before any final determination by the Commission that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of the Act *or Federal Act and its implementing Federal regulations and all Federal and state programs approved under the Federal Act or Federal or state laws as used in 30 CFR 773.15(b)* of such nature, duration, and with such resulting irreparable damage to the environment that indicates an intent not to comply with the provisions of the Act *or Federal Act and its implementing Federal regulations and all Federal and state programs approved under the Federal Act or Federal or state laws as used in 30 CFR 773.15(b),* no permit shall be issued *and* [before] a hearing *shall be held* [and a final determination that no pattern of willful violations exists]. * * * *The Commission shall deny an application after a determination has been made that a pattern of willful violations exists.*

Texas proposed to add the italicized language and to delete the bracketed language. The proposed regulation further provides that the applicant or operator shall be afforded the opportunity for an adjudicatory hearing in accordance with TCMR 787.222.

Section 510(c) of SMCRA and the Federal regulation at 30 CFR 773.15(b)(3) prohibit issuance of a permit when the regulatory authority makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Act of such nature and duration, and with resulting irreparable damage to the environment, as to

indicate an intent not to comply with the Act. The term ''Act,'' as used in section 510(c) of SMCRA and 30 CFR 773.15(b)(3), includes SMCRA, its implementing Federal regulations, and all Federal and State programs approved under SMCRA (48 FR 44344, 44389, September 28, 1983). The Federal regulation also requires that the applicant or operator be given an opportunity for an adjudicatory hearing on the determination, as provided for at 30 CFR 775.11, before such a finding becomes final.

As discussed in finding No. 3, Texas defines the term ''Act'' to mean the ''Texas Surface Coal Mining Control and Reclamation Act'' and defines the term ''Federal Act'' to mean the ''Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).'' Therefore, where proposed TCMR 786.215(f) requires the Commission to consider as a demonstrated pattern of willful violation of or as an intent not to comply with the provisions of ''the Act or Federal Act and its implementing Federal regulations and all Federal * * * programs approved under the Federal Act,'' it refers to violations of provisions of TSCMRA, SMCRA, SMCRA's implementing regulations, and SMCRA-approved Federal programs (OSM-administered Indian lands program and Federal programs for States).

As also discussed in finding No. 3, Texas stated in a previously proposed and approved amendment (Administrative Record No. TX–562) that the word ''State,'' when capitalized, refers to Texas and, when uncapitalized, refers to all States within the United States of America. Therefore, where proposed TCMR 786.215(f) requires the Commission to consider ''state programs approved under the Federal Act'' it means the SMCRA programs of any State within the United States of America, not just the Texas program. Proposed TCMR 786.215(f) also requires the Commission, when determining whether a pattern of violations exists, to consider, in part, violations of ''Federal or state laws as used in 30 CFR 773.15(b).'' The Federal regulations at 30 CFR 773.15(b)(1) require the regulatory authority to consider, as a basis for permit denial, information concerning, among other things, violations of SMCRA, any Federal rule or regulation promulgated pursuant to SMCRA, a State program, and any Federal or State law, rule, or regulation pertaining to air or water environmental protection. Because the State provision already specifically encompasses violations of TSCMRA, SMCRA, SMCRA's implementing regulations, and SMCRA-approved Federal and State programs, the proposed phrase ''Federal or state laws as used in 30 CFR 773.15(b)'' must refer only to Federal and State laws, rules, and regulations pertaining to air or water environmental protection.

However, the provision of the Federal regulations dealing with pattern of willful violation determinations, 30 CFR 773.15(b)(3), does not require the regulatory authority to consider non-SMCRA violations of Federal and State laws, rules, or regulations pertaining to air or water environmental protection. The regulatory authority is required to consider only violations of SMCRA, its implementing Federal regulations, and SMCRA-approved Federal and State programs. Thus, the proposed phrase would require the Commission to consider, when determining whether a pattern of violation exists, a larger set of violations than is required by the Federal regulations at 30 CFR 773.15(b)(3), thereby increasing the possibility that a pattern of willful violations exists.

In accordance with section 505(b) of SMCRA and 30 CFR 730.11(b), a State regulatory authority has the discretion to impose land use and environmental controls and regulations on surface coal mining and reclamation operations that are more stringent than those imposed under SMCRA and the Federal regulations or for which no Federal counterpart exists. Section 505(b) of SMCRA and 30 CFR 730.11(b) provisions dictate that such State provisions shall not be construed to be inconsistent with SMCRA or the Federal regulations. Therefore, the Director approves the proposed revisions at TCMR 786.215(f) and removes the required amendment at 30 CFR 943.16(f).

(c) *TCMR 786.216(i).* In response to the required amendment at 30 CFR 943.16(s) (finding No. 3(b), 59 FR 13200, 13203, March 21, 1994), Texas proposed to delete existing TCMR 786.216(i) and recodify existing paragraphs (j) through (o), respectively, as paragraphs (i) through (n). Existing TCMR 786.216 sets forth criteria for permit approval or denial, and TCMR 786.216(i) provides that the Commission shall not approve an application for a permit or permit revision unless the application affirmatively demonstrates and the Commission finds, in writing, that a pattern of willful violations of TSCMRA does not exist.

The Federal regulations at 30 CFR 773.15(c) pertain to written findings required for permit application approval. These regulations do not require the regulatory authority to make, as a condition for permit approval, a written finding that a demonstrated pattern of willful violations of the Act does not exist. However, the Federal regulation at 30 CFR 773.15(b)(3) prohibits issuance of a permit if the regulatory authority finds that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of SMCRA of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with SMCRA. As discussed in finding No. 4(b), Texas has proposed at TCMR 786.215(f) requirements for patterns of willful violations of SMCRA and TSCMRA that are no less effective than the Federal regulations at 30 CFR 773.15(b)(3).

Because the Federal regulations do not require the regulatory authority to make, as a condition for permit approval, a written finding that a demonstrated pattern of willful violations of the Act does not exist and because Texas has proposed at TCMR 786.215(f) requirements concerning the existence of a pattern of willful violations of SMCRA and TSCMRA that are no less effective than the Federal regulation at 30 CFR 773.15(b)(3), the Director finds that the provisions of deleted TCMR 786.216(i) are duplicative and unnecessary. Also, because recodification does not alter the content or meaning of the recodified regulations, the Director finds that the proposed recodification of TCMR 786.216 (j) through (o) as (i) through (n) is not inconsistent with any Federal requirements. Therefore, the Director (1) approves the deletion of TCMR 786.216(i) and the recodification of the remaining paragraphs of section .216 and (2) removes the required amendment at 30 CFR 943.16(s).

5. TCMR 788.225(g)(1), Automatic Suspension and Rescission

In response to the required amendment at 30 CFR 943.16(j)(4), Texas proposed to revise TCMR 788.225(g)(1) to require that, after a specified period of time not to exceed 90 days after the Commission has served on the permittee a notice of a proposed suspension and rescission, the permit will automatically become suspended and, after a subsequent period not to exceed 90 days, the permit will automatically be rescinded, unless the permittee submits adequate proof for the Commission to find that the permit should not be suspended or rescinded.

The corresponding Federal regulation at 30 CFR 773.21(a) provides that,

> After a specified period of time not to exceed 90 days the permit automatically will become suspended, and not to exceed 90 days thereafter rescinded, unless within those periods the permittee submits proof, and the regulatory authority finds, consistent with the provisions of § 773.25 of this part, that * * *.''

With one exception, proposed TCMR 788.225(g)(1) is substantively identical the corresponding Federal regulations at 30 CFR 773.21(a). The exception is that proposed TCMR 788.225(g)(1) does not include provisions equivalent to those provided by the Federal phrase ''consistent with the provisions of § 773.25.'' 30 CFR 773.25 specifies standards for challenging ownership and control links and the status of violations. The Texas program does not have a direct counterpart to the Federal standards for challenging ownership and control links and the status of violations at 30 CFR 773.25 or to other requirements referred to at 30 CFR 773.25.

Therefore, the Director finds that the proposed revisions to TCMR 788.225(g)(1) are less effective than the corresponding Federal provisions at 30 CFR 773.21(a). The Director approves the proposed revisions to TCMR 788.225(g)(1) and removes the required amendment at 30 CFR 743.16(j)(4). However, the Director requires Texas to further revise TCMR 788.225(g)(1), or otherwise revise the Texas program, to require that the Commission's findings with regard to a permittee's challenge of the Commission's decision to suspend and rescind an improvidently issued permit must be consistent with the provisions of the Federal requirements at 30 CFR 773.25.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment. In response to OSM's invitation, the Texas Natural Resource Conservation Commission responded on July 5, 1994, that it supported the proposed changes and on November 7, 1994, that it had no comment on the proposed changes (Administrative Record Nos. TX–576.08 and TX–576.21).

The Texas Department of Health responded on June 16, 1994, that it supported the proposed changes to the Railroad Commission of Texas' coal mining and reclamation regulatory program (Administrative Record No. TX–576.05).

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Texas program.

The Bureau of Land Management responded on October 31, 1994, that it had no comments on the revised submittal (Administrative Record No. TX–576.18).

The Bureau of Mines responded on June 14, 1994, and October 31, 1994, that it had no comments (Administrative Record Nos. TX–576.03 and TX–576.19).

The Forest Service responded on June 15, 1994, that it had no comments to offer and on October 20, 1994, that it had no additions or corrections to offer (Administrative Record Nos. TX–576.04 and TX–576.15).

The Soil Conservation Service responded on June 22, 1994, that the proposed amendment should have no adverse effect on the technical aspects of reconstruction or reclamation and on October 20, 1994, that it had no comments on the proposal (Administrative Record Nos. TX–576.06 and TX–576.16).

The U.S. Army Corps of Engineers responded on June 8, 1994, and October 25, 1994, that it found the amendment satisfactory to that agency (Administrative Record Nos. TX–576.02 and TX–576.17).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Texas proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA, Region VI (Administrative Record No. TX–576.14). EPA did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. TX–576.14). Neither responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with two additional requirements, the proposed revisions as submitted by Texas on May 24, 1994, and as further revised by it on October 6, 1994.

The Director approves (1) as discussed in finding No. 1, the recodification of existing TCMR 788.225(g) as paragraph (h), concerning right of appeal and (2) as discussed in finding No. 2, the proposed revisions to TCMR 788.225(f) (3) and (4), (g), (g)(1) (i) through (iv), and (g)(2), concerning Commission review of outstanding permits; finding No. 4a, the proposed use of the word ''state,'' uncapitalized, in place of the word ''State,'' capitalized, at TCMR 786.215(e)(1), review of permit applications; finding No. 4b, the proposed revisions to TCMR 786.215(f) concerning patterns of willful violations; and finding No. 4c, the deletion of TCMR 786.216(i) and the recodification of existing TCMR 786.216 (j) through (o), respectively, as TCMR 786.216 (i) through (n), concerning criteria for permit approval or denial.

With the requirement that Texas further revise its rules, the Director approves, as discussed in finding No. 3, the proposed addition of the phrase ''and its implementing Federal regulations and all Federal and state programs under the Federal Act'' and the use of the word ''state,'' uncapitalized, in place of the word ''State'' capitalized, at TCMR 778.116(m), concerning identification of interests and compliance information; and finding No. 5, the proposed revisions to TCMR 788.225(g)(1), concerning Commission review of outstanding reports.

The Director approves the revisions proposed by Texas with the provision that they be fully promulgated in identical form to the revisions submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 943, codifying decisions concerning the Texas program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into

conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of a small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 21, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, of the Code of Federal Regulations is amended as set forth below:

PART 943—TEXAS

1. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended by adding a new paragraph (j) as follows:

§ 943.15 Approval of amendments to the Texas regulatory program.

* * * * *

(j) The revisions to 16 Texas Administrative Code 11.221, the Coal Mining Regulations of the Railroad Commission of Texas, as submitted on May 24, 1994, and as further revised on October 6, 1994, are approved effective March 27, 1995.

Revisions to the following regulations are approved:

TCMR 778.116(m), identification of interests and compliance information.
TCMR 786.215(e)(1), review of violations.
TCMR 786.215(f), patterns of willful violations.
TCMR 786.216(i), existing paragraph deleted.
TCMR 786.216(j) through (o), recodified as (i) through (n).
TCMR 786.225(f)(3) and (4), Commission review of outstanding permits: remedial measures.
TCMR 786.225(g), (g)(1), (g)(1) (i) through (iv), rescission procedures.
TCMR 786.225(g)(2), cessation of operations.
TCMR 786.225(h), recodification.

3. Section 943.16 is amended by removing and reserving paragraphs (c), (d), (f), (j), and (s), and adding paragraphs (t) and (u) to read as follows:

§ 943.16 Requried program amendments.

* * * * *

(a)–(j) [Reserved]

* * * * *

(s) [Reserved]

(t) By September 25, 1995, Texas shall formally propose an amendment to OSM for TCMR 778.116(m) to require a permit application to include information on all violations of any State law, rule, or regulation that pertains to air or water environmental protection, not just those violations that were enacted pursuant to Federal law, rule, or regulation.

(u) By September 25, 1995, Texas shall formally propose an amendment to OSM for TCMR 788.225(g)(1) or otherwise revise the Texas program to require that the Commission's findings with regard to the permittee's challenge of the Commission's decision to suspend and rescind an improvidently issued permit must be consistent with the provisions of the Federal requirements at 30 CFR 773.25.

[FR Doc. 95–7440 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Utah permanent regulatory program (hereinafter referred to as the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). Utah proposed revisions to its rules pertaining to the confidentiality of coal exploration information. The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program for the regulation of coal exploration and coal mining and reclamation operations on non-Federal and non-Indian lands. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and an explanation of the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal**

Register (46 FR 5899). Actions taken subsequent to approval of the Utah program are codified at 30 CFR 944.15, 944.16, and 944.30.

II. Submission of Proposed Amendment

By letter dated September 9, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA and the Federal regulations at 30 CFR chapter VII (administrative record No. UT–971). Utah submitted the proposed amendment in response to the required program amendment at 30 CFR 944.16(a) (59 FR 35255, 35258–9, July 11, 1994). The provisions of the Utah Coal Mining Rules that Utah proposed to revise were at Utah Administrative Rule (Utah Admin. R.) 645–203–200 and pertain to the public availability and confidentiality of coal exploration information.

OSM announced receipt of the proposed amendment in the September 27, 1994, **Federal Register** (59 FR 49227), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. UT–976). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 27, 1994.

During its review of the amendment, OSM identified concerns relating to the proposed provisions of Utah's rule. OSM notified Utah of the concerns by letter dated November 15, 1994 (administrative record No. UT–991). Utah responded in a letter dated January 5, 1995, by submitting a revised amendment and additional explanatory information (Administrative Record No. UT–1003).

Based upon the revisions of and the additional explanatory information for the proposed amendment submitted by Utah, OSM reopened the public comment period in the January 24, 1995, **Federal Register** (60 FR 4581, Administrative Record No. UT–1009). The public comment period ended February 8, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Utah on September 9, 1994, and as revised by it and supplemented with additional explanatory information on January 5, 1995, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

Utah Admin. R. 645–203–200, Public Availability and Confidentiality of Coal Exploration Information

In response to the required amendment at 30 CFR 944.16(a) Utah proposed to revise its coal exploration rule at Utah Admin. R. 645–203–200 concerning the obligation of the State to keep information submitted with a coal exploration permit application confidential. As proposed, the rule would provide that—

> [T]he Division [of Oil, Gas and Mining] will not make information available for public inspection, if the person submitting it requests in writing, at the time of submission, that it not be disclosed *and* the information concerns trade secrets or is privileged commercial or financial information relating to the competitive rights of the persons intending to conduct coal exploration. (emphasis added).

Proposed Utah Admin. R. 645–203–200 includes two confidentiality criteria that are joined by the word ''and.'' The first criteria is that the person submitting the information request that the information be kept confidential. The second criterion is that the information concern trade secrets or other privileged commercial or financial information relating to the competitive rights of the person intending to conduct coal exploration operations. Both criteria must be satisfied before Utah would keep coal exploration confidential. Proposed Utah Admin. R. 645–203–200 contains the same confidentiality requirements as are contained in the counterpart Federal regulation at 30 CFR 772.15(b).

However, the second criterion of proposed Utah Admin. R. 645–203–200, which requires that the information the applicant wishes to remain confidential must concern trade secrets or other privileged commercial information, is already present in the Utah program at existing Utah Admin. R. 645–203–210. This provision of the Utah program provides that—

> [T]he Division will keep information confidential if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct coal exploration.

By letter dated November 15, 1994, OSM asked Utah to clarify what effect, if any, the similarity between these two provisions would have on the implementation of Utah's coal exploration rules. By letter dated January 5, 1995, Utah responded that the existing rule at Utah Admin. R. 645–203–210 would only apply in situations where the first criterion of Utah Admin. R. 645–203–200 also applied. Under this interpretation, the existing provision at Utah Admin. R. 645–203–210 is simply extra regulatory language that is redundant with the second criterion in proposed Utah Admin. R. 645–203–200. This redundant language does not render proposed Utah Admin. R. 645–203–200 less effective than the corresponding Federal regulation at 30 CFR 772.15(b).

Because proposed Utah Admin. R. 645–203–200 and existing Utah Admin. R. 645–203–210, concerning the public availability and confidentiality of coal exploration information, require the same criteria in determining whether coal exploration information is to be kept confidential and provide for the same responsibility in keeping such information confidential as does 30 CFR 772.15(b), the Director finds that proposed Utah Admin. R. 645–203–200 is no less effective than 30 CFR 772.15(b). The Director approves the proposed rule and removes the required amendment at 30 CFR 944.16(a).

IV. Summary and Disposition of Comments

Following are summaries of all oral and written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program.

The U.S. Army Corps of Engineers responded on October 12, 1994, and January 31, 1995, that it found the changes to be satisfactory (administrative record Nos. UT–981 and UT–1018).

By memorandum dated October 26, 1994, the U.S. Fish and Wildlife Service stated that it had reviewed the changes and had found nothing that would be detrimental to fish and wildlife resources (administrative record No. UT–986).

By letter dated January 6, 1995, the Mine Safety and Health Administration (MSHA) stated that MSHA personnel had reviewed the amendment and that there appeared to be no conflicts with the requirements of 30 CFR pertaining to coal mine safety and health (administrative record No. UT–1004).

The Bureau of Mines responded in a telephone conversation on January 18, 1995, that it had no comments on the

proposed amendment (administrative record No. UT–1007).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Utah proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record Nos. UT–972 and UT–1008). It responded on September 29, 1994, and February 1, 1995 (administrative record Nos. UT–975 and UT–1017), that it had no comments on the amendment and that it believed there would be no impacts to water quality standards promulgated under authority of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*).

4. State Historic Preservation Officer (SHPO)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO (administrative record Nos. UT–972 and UT–1008). The SHPO did not respond to OSM's requests.

V. Director's Decision

Based on the above finding, the Director approves Utah's proposed amendment as submitted on September 9, 1994, and as revised by it and supplemented with additional explanatory information on January 5, 1995.

The Director approves Utah Admin. R. 645–203–200, concerning the confidentiality of coal exploration information, and removes 30 CFR 944.16(a), which required Utah to revise this rule. The Director approves the rule as proposed by Utah with the provision that it be fully promulgated in identical form to the rule submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 944, codifying decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12886 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 20, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 944—UTAH

1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding paragraph (cc) to read as follows:

§ 944.15 Approval of amendments to State regulatory program.

* * * * *

(cc) Revisions to Utah Admin. R. 645–203–200, confidentiality of coal exploration information, as submitted to OSM on September 9, 1994, and as revised and supplemented with additional explanatory information on January 5, 1995, are approved effective March 27, 1995.

§ 944.16 [Amended]

3. Section 944.16 is amended by removing and reserving paragraph (a).

[FR Doc. 95–7436 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–05–M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1690

Selective Service Regulations; Post Employment Conflict of Interest

AGENCY: Selective Service System.

ACTION: Fianl rule.

SUMMARY: 32 CFR part 1690—Post Employment Conflict of Interest is being removed from the Code of Federal Regulations because it has been made obsolete by the revocation of 5 CFR part 737 and the issuance by the United States Office of Government Ethics of 5

CFR part 2641—Post-Employment Conflict of Interest Restrictions.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Blvd., Arlington, VA 22209–2425. Phone (703) 235–2050.

SUPPLEMENTARY INFORMATION:

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), I find good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to this rule. The notice and delayed effective date are being waived because the removal of 32 CFR part 1690 is indicated by 1 CFR part 8 because it is obsolete.

Executive Order 12866

In promulgating this rule, I have adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This amendment has not been reviewed by the Office of Management and Budget under that Executive order, as it is not deemed ''significant'' thereunder.

Regulatory Flexibility Act

I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 32 CFR Part 1690

Conflict of interests, Government employees.

Dated: March 16, 1995.

Gil Coronado,

Director of Selective Service.

PART 1690—[REMOVED AND RESERVED]

For the reasons set out in the preamble, and under the authority of Title V, sec. 501(a), Pub. L. 95–521, as amended, 92 Stat. 1864; and secs. 1 and 2, Pub. L. 96–28, 93 Stat. 76 (18 U.S.C. 207); and 5 CFR part 737, part 1690 is removed and reserved.

[FR Doc. 95–7217 Filed 3–24–95; 8:45 am]

BILLING CODE 8015–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[PP 1F3952, PP 1F3985, PP 2F4100, and FAP 1H5607/R2120; FRL–4945–8]

RIN 2070–AB78

Lambda-Cyhalothrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the synthetic pyrethroid lambda-cyhalothrin in or on the raw agricultural commodities (RACs) tomatoes, cabbage, broccoli, head lettuce, dry bulb onion, and garlic and in or on the processed food/feed tomato pomaces. Zeneca, Inc., requested this regulation to establish maximum permissible levels for residues of the insecticide.

EFFECTIVE DATE: This regulation becomes effective March 27, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 1F3952, PP 1F3985, PP 2F4100, and FAP 1H5607/R2120], 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: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Second Floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6100; e-mail: LaRocca.George@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Registers** of April 3, 1991 (56 FR 13642), December 13, 1991 (56 FR 65080), and June 10, 1992 (57 FR 24644), which announced that Zeneca, Inc., (formerly ICI Americas, Inc.), 1800 Concord Pike, Wilmington, DE 19897, had submitted pesticide petitions (PPs) 1F3952, 1F3985, 2F4100 and food/feed additive petition (FAP) 1H5607 to EPA requesting that the Administrator, pursuant to sections 408(d) and 409(b) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) and 348(b), establish tolerances for residues of the insecticide lambda-cyhalothrin [1-α-(*S*),3-2-α-(*Z*)]-(±)-cyano-(3-phenoxyphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate] in or on the raw agricultural commodities (RACs) tomatoes at 0.06 part per million (ppm); cabbage at 0.4 ppm; broccoli at 0.4 ppm; lettuce (head) fresh, with wrapper leaves at 2.0 ppm; lettuce (head) fresh, without wrapper leaves at 0.3 ppm; dry bulb onions and garlic at 0.1 ppm; tomato pomaces (wet) at 0.6 ppm; and tomato pomaces (dry) at 4.0 ppm. EPA considers lettuce with wrapper leaves as the raw agricultural commodity not without wrapper leaves. Therefore, a proposed tolerance of 2.0 ppm for lettuce (head) is the correct commodity definition for tolerance purposes.

On June 29, 1994, Zeneca, Inc., requested that certain petitions be amended by increasing the proposed tolerances for the RAC tomatoes (PP 1F3952) to 0.1 and by deleting the proposed tolerance on wet tomato pomace (1H5607) since there is no distinction between wet and dry pomace, and increasing the proposed feed additive tolerance to 6.0 ppm for tomato pomaces. (See the **Federal Register** of August 24, 1994 (59 FR 43580).)

Currently, tolerances for lambda-cyhalothrin have been established as combined residues of parent and its epimer without expressing the chemical identification of the epimer since an analytical method to distinguish parent from epimer was not available at the time. There are now validated methods to distinguish parent from epimer, and the tolerances will now be expressed as the combined residues of lambda-cyhalothrin and its epimer. In addition, EPA has concluded that although the Chemical Abstract Services (CAS) names for lambda-cyhalothrin and its epimer are more compact, to a chemist the structures are more easily derived from the IUPAC names. Therefore, the IUPAC nomenclature will replace the CAS names in this and future regulations for lambda-cyhalothrin. The

correct IUPAC names for lambda-cyhalothrin and its epimer are as follows: Lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3- (2-chloro-3,3,3-trifluoroprop-1-enyl) -2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*) -3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate. Epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3- trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α -cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include:

1. A metabolism study in rats demonstrated that distribution patterns and excretion rates in multiple oral dose studies are similar to single-dose studies. Accumulation of unchanged compound in fat upon chronic administration. Otherwise, rapidly metabolized and excreted.

2. A 12-month feeding study in dogs fed dose (by capsule) levels of 0, 0.1, 0.5, 3.5 milligrams(mg)/kilogram (kg)/day with a no-observed-effect level (NOEL) of 0.1 mg/kg/day. The lowest-observed-effect-level (LOEL) for this study is established at 0.5 mg/kg/day based upon clinical signs of neurotoxicity ataxia, muscle tremors, convulsions.

3. A developmental toxicity study in rats given gavage doses of 0, 5, 10, and 15 mg/kg/day with no developmental toxicity observed under the conditions of the study. Developmental NOEL is greater than 15 mg/kg/day. Maternal NOEL and LOEL are established at 10 and 15 mg/kg/day, respectively. Reduced body weight and food consumption were observed during the dosing period.

4. A developmental toxicity study in rabbits given gavage doses of 0, 3, 10, and 30 mg/kg/day with no developmental toxicity observed under the conditions of the study. The maternal NOEL and LOEL are established at 10 and 30 mg/kg/day, respectively (decreased body weight gain was observed during the dosing period). The developmental NOEL is 30 mg/kg/day (highest dose tested).

5. A three-generation reproduction study in rats fed diets containing 0, 10, 30, and 100 ppm with no developmental toxicity observed at 100 ppm, highest dose tested. The maternal NOEL and LOEL for the study are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based upon decreased parental body weight gain. The reproductive NOEL and LOEL are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based on decreased pup weight gain during weaning.

6. A 24-month chronic feeding/carcinogenicity study with rats fed diets containing 0, 10, 50, and 250 ppm. The NOEL was established at 50 ppm and LOEL at 250 ppm. Reduced body weight gain was observed at 250 ppm in both sexes throughout the study. The animals could have tolerated higher dose levels; however, the Agency considered the high dose to be approaching an adequate dose for a negative carcinogenicity study. There were no carcinogenic effects observed under the conditions of the study.

7. A carcinogenicity study in mice fed dose levels of 0, 20, 100, or 500 ppm (0, 3, 15, or 75 mg/kg/day) in the diet for 2 years. A systemic NOEL was established at 100 ppm and systemic LOEL at 500 ppm based on decreased body weight gain in males throughout the study at 500 ppm. The Agency has determined that the chemical was not tested at a sufficiently high dose level for carcinogenicity testing in female mice. In addition, due to an equivocal finding for mammary tumors in females (1/52, 0/52, 7/52, 6/52), the Agency classified the chemical as a Group D carcinogen.

8. The following genotoxicity tests were negative: a gene mutation assay (Ames), a chromosomal aberration study in rodents, an *in vito* cytogenetics assay, and a gene mutation study in Lymphoma cells.

The acceptable Reference Dose (RfD) based on a NOEL of 0.1 mg/kg/body weight/day from the chronic dog study and a safety factor of 100 is 0.001 mg/kg/body weight/day. A chronic dietary exposure/risk assessment has been performed for lambda-cyhalothrin using the above RfD. Available information on anticipated residues and percent crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC from established tolerances and the current and pending actions are estimated to be 0.000192 mg/kg/bwt/day and utilize 19.24 per cent of the RfD for the U.S. population. The ARC for children, aged 1 to 6 years old, and nonnursing infants (subgroups most highly exposed) utilizes 32 and 58 percent of the RfD, respectively. Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

The metabolism of the chemical in plants and livestock is adequately understood for this use. Any secondary residues occurring in meat and meat by products will be covered by the existing tolerances. There is no reasonable expectation of finite residues in poultry commodities; therefore, no tolerances are necessary at this time.

An adequate analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to any one interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington VA 22202, (703)-305-5232.

The Agency issued a conditional registration for lambda-cyhalothrin for use on cotton with an expiration date of August 30, 1990 (see the **Federal Register** of May 24, 1988 (53 FR 18558)). The conditional registration was subsequently amended and extended to November 15, 1996 ((see the **Federal Register** of February 22, 1995 (60 FR 9783)). The registrations were amended and extended to allow time for submission and evaluation of additional environmental effects data. In order to evaluate the effects of the synthetic pyrethroids on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. Due to the conditional status of the registration, tolerances have been established for lambda-cyhalothrin on a temporary basis (until November 15, 1997) on cottonseed, meat, fat and meat-byproducts of hogs, horses, cattle, goats, sheep and milk to cover residues expected to be present from use during the period of conditional registration.

To be consistent with the conditional registration status of lambda-cyhalothrin on cotton the Agency is establishing these tolerances with an expiration date of November 15, 1997.

There are currently no actions pending against the continued registration of this chemical. The pesticide is considered useful for the purposes which it is sought, and the pesticide is considered capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances for the RACs will protect the public health and are in accordance with the terms of the proposed food additive tolerance for tomato pomaces and will be safe. Therefore, tolerances are 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 Parts 180 and 186

Environmental Protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

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

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

b. By revising § 180.438, to read as follows:

§ 180.438 Lambda-cyhalothrin; tolerances for residues.

Tolerances to expire on November 15, 1997, are established for the combined residues of the pyrethroid lambda-cyhalothrin and its epimer expressed as: Lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3- trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3- trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer expressed as epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3- phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3- trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Broccoli	0.4
Cabbage	0.4
Cattle, fat	0.02
Cattle, meat	.01
Cattle, mbyp	.01
Cottonseed	0.05
Dry bulb onion	0.1
Garlic	0.1
Goats, fat	0.02
Goats, meat	.01
Goats, mbyp	.01
Hogs, fat	.01
Hogs, meat	.01
Hogs, mbyp	.01
Horses, fat	0.02
Horses, meat	.01
Horses, mbyp	.01
Lettuce, head	2.0
Milkfat (reflecting 0.01 ppm in whole milk)	0.25
Sheep, fat	0.02
Sheep, meat	.01
Sheep, mbyp	.01
Tomatoes	0.1

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By adding new § 186.3765, to read as follows:

§ 186.3765 Lambda-cyhalothrin.

A tolerance to expire on November 15, 1997, of 6.0 parts per million is established for residues of the insecticide lambda-cyhalothrin and its epimer expressed as: Lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3 trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and

(*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3 trifluoroprop-1-enyl)- 2,2-dimethylcyclopropanecarboxylate and its epimer, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3 trifluoroprop-1-enyl)- 2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano- 3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3 trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in tomato pomace (dry, wet) resulting from application of the insecticide to tomatoes.

[FR Doc. 95–7586 Filed 3–23–95; 11:47 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 80, and 97

[ET Docket No. 93–40; FCC 95–113]

Allocation of the 219–220 MHz Band for Use by the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order (Order), the Commission establishes regulations for amateur point-to-point fixed digital message forwarding systems, including intercity packet backbone networks. This action provides the Amateur Radio Service use of the 219–220 MHz band on a secondary basis.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas P. Derenge, (202) 776–1621, Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted March 14, 1995, and released March 17, 1995. A Summary of the Notice of Proposed Rule Making initiating this proceeding may be found at 58 FR 17180 (April 1, 1993). This action will not add to or decrease the public reporting burden. The full text of the Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order

The Order adopts rules that include a spectrum allocation on a secondary basis, safeguards to protect other services from interference, and technical standards for amateur operations in the 219–220 MHz band. This action is expected to provide spectrum to the amateur radio service for point-to-point fixed digital message forwarding systems, including intercity packet backbone networks. The spectrum is needed to alleviate frequency congestion that amateurs are experiencing in certain areas of the country in the 222–225 MHz band and to facilitate establishment of regional and nationwide backbone networks for amateur packet communications. These networks could also be used for emergency preparedness and national defense communications. Amateur may also use this spectrum to develop and experiment with new technologies to further the radio art. Additionally, the rules adopted should prevent harmful interference to the primary services on and adjacent to the 219–220 MHz band.

2. Specifically, in the Order the Commission allocated ten 100 kilohertz channels from 219 MHz to 220 MHz. Amateur operations at 219–220 MHz are authorized to operate at powers up to 50 watts (PEP) without data rate limitations. This band is restricted to amateurs holding Technician or higher class licenses.

3. The secondary status of the allocation prohibits amateur operations from causing interference to primary services. However, it does not protect secondary amateur operations from interference. The Order also protects Automated Maritime Telecommunications Service (AMTS) by requiring amateurs to notify AMTS licenses 30 days prior to initiation of operations if the amateur operation is within 640 kilometers of an AMTS base station. Additionally, amateur stations within 80 kilometers of an AMTS base station must obtain written approval from the AMTS licensee prior to operating in the 219–220 MHz band.

4. Amateurs wishing to utilize the 219–220 MHz band must notify the American Radio Relay League (ARRL) 30 days prior to institution of operation. The ARRL will maintain a database of all amateur and AMTS operations in the 219–220 MHz band. Therefore, the ARRL database would serve as a nationwide point of contact to provide coordination information and to aid in investigation of interference problems, in the unlikely event such problems occur. Amateur operators are encouraged to seek coordination assistance from a local amateur coordinator.

5. Ordering Clauses. Accordingly, it is ordered, that the American Radio Relay League, Inc. is designated as the national contact point for all amateur operations in the 219–220 MHz band and is responsible for maintaining a database of all amateur operations in the 219–220 MHz band as well as any other primary service operating in that band.

6. Further, it is ordered, that Parts 2, 80, and 97 of the Commission's rules ARE AMENDED as specified below, effective April 26, 1995. This action is taken pursuant to Sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), 303(r), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 80

Radio, Vessels.

47 CFR Part 97

Radio, Civil defense, Reporting and recordkeeping requirements, Volunteers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Parts 2, 80, and 97 of chapter I of title 47 of the Code of Federal Regulation are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation in part 2 continues to read:

Authority: Sec.4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. In the 216–220 MHz band, columns 4 through 6 in the United States table are revised:

b. Non-Government footnote NG152 is added:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
			216–220 MARITIME MOBILE. Aeronautical-Mobile. Fixed. Land Mobile. Radiolocation. 627, US210, US229, US274, US317, G2.	216–220 MARITIME MOBILE. Aeronautical-Mobile. Fixed. Land Mobile. 627, US210, US229, US274, US317, NG152.	MARITIME (80). Private Land Mobile (90). Personal Radio Service (95). Amateur (97).	
*	*	*	*	*	*	*

* * * * *

Non-Government (NG) Footnotes

* * * * *

NG152 The band 219–220 MHz is also allocated to the amateur service on a secondary basis for stations participating, as forwarding stations, in point-to-point fixed digital message forwarding systems, including intercity packet backbone networks.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.385 is amended by adding a new paragraph (a)(3) to read as follows:

§ 80.385 Frequencies for automated systems.

* * * * *

(a) * * *

(3) Channels in the 219–220 MHz band are also used on a secondary, non-interference basis by amateur stations participating in digital message forwarding systems. Amateur stations may not cause harmful interference to AMTS operations and must accept any harmful interference from AMTS operation. Amateur stations within 80 km (50 miles) of an AMTS coast station must obtain written approval from the AMTS licensee prior to operating in the 219–220 MHz band. Amateur stations within 640 km (398 miles) of an AMTS coast station must notify the AMTS licensee in writing at least 30 days prior to initiation of operations in the 219–220 MHz band. All amateur stations must notify the American Radio Relay League in writing at least 30 days prior to initiation of operations in the 219–220 MHz band (ARRL, 225 Main St., Newington, CT 06111–1494).

* * * * *

PART 97—AMATEUR RADIO SERVICE

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

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.201(b) is revised to read as follows:

§ 97.201 Auxiliary station.

* * * * *

(b) An auxiliary station may transmit only on the 1.25 m and shorter wavelength bands, except the 219–220 MHz, 222.000–222.150 MHz, 431–433 MHz, and 435–438 MHz segments.

* * * * *

3. Section 97.301(a) is amended by revising the third entry in the VHF Wavelength band to read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(a) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303 (paragraph)
VHF	MHz	MHz	MHz	
*	*	*	*	*
1.25 m	.....	219–220	.....	(a), (e).
Do	.....	222–225	.....	(a).
*	*	*	*	*

* * * * *

4. Section 97.303(e) is added to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(e) In the 1.25 m band:

(1) Use of the 219–220 MHz segment is limited to amateur stations participating, as forwarding stations, in point-to-point fixed digital message forwarding systems, including intercity packet backbone networks. It is not available for other purposes.

(2) No amateur station transmitting in the 219–220 MHz segment shall cause harmful interference to, nor is protected from interference due to operation of Automated Maritime Telecommunications Systems (AMTS), television broadcasting on channels 11 and 13, Interactive Video and Data

Service systems, Land Mobile Services systems, or any other service having a primary allocation in or adjacent to the band.

(3) No amateur station may transmit in the 219–220 MHz segment unless the licensee has given written notification of the station's specific geographic location for such transmissions in order to be incorporated into a data base that has been made available to the public. The notification must be given at least 30 days prior to making such transmissions. The notification must be given to: The American Radio Relay, Inc., 225 Main Street, Newington, CT 06111–1494.

(4) No amateur station may transmit in the 219–220 MHz segment from a location that is within 640 km of an AMTS Coast Station unless the amateur station licensee has given written notification of the station's specific geographic location for such transmissions to the AMTS licensee. The notification must be given at least 30 days prior to making such transmissions. AMTS Coast Station locations may be obtained either from:

The American Radio Relay, Inc., 225 Main Street, Newington, CT 06111–1494

or

Interactive Systems, Inc., Suite 1103, 1601 North Kent Street, Arlington, VA 22209, Fax: (703) 812–8275, Phone (703) 812–8270.

(5) No amateur station may transmit in the 219–220 MHz segment from a location that is within 80 km of an AMTS Coast Station unless the amateur station licensee holds written approval from that AMTS licensee.

* * * * *

5. The table in Section 97.305(c) is amended by revising the third entry in the VHF wavelength band to read as follows:

§ 97.305 Authorized emission types.

* * * * *

(c) * * *

Wavelength band	Frequencies	Emission types authorized	Standards see § 97.307(f), paragraph
* *	* *	* *	* *
1.25 m	219–220 MHz	Data	(13).
Do	222–225 MHz	MCW, phone, image, RTTY, data, test.	(2), (6), (8).
* *	* *	* *	* *

6. Section 97.307(f)(13) is added to read as follows:

§ 97.307 Emission standards.

* * * * *

(f) * * *

(13) A data emission using an unspecified digital code under the limitations listed in § 97.309(b) also may be transmitted. The authorized bandwidth is 100 kHz.

7. Section 97.313(h) is added to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(h) No station may transmit with a transmitter power exceeding 50 W PEP on the 219–220 MHz segment of the 1.25 m band.

[FR Doc. 95–7296 Filed 3–24–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–221, FCC 95–97]

Broadcast Services; Television Station Ownership

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission eliminates two of its television network rules, the ''network station ownership'' rule, and the ''secondary affiliation'' rule. This action is taken because a review of the record in this proceeding indicates that changes in the television marketplace have rendered these rules obsolete. Thus, the action is taken to ensure that the Commission's rules are as current and effective as possible.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Dan Bring, Mass Media Bureau, (202) 739–0770, or Roger Holberg, Mass Media Bureau, (202) 776–1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Report and Order in MM Docket No. 91–221, FCC 95–97, adopted March 7, 1995, and released March 7, 1995. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Report and Order

1. The Commission eliminates two of its network rules, 47 CFR § 73.658(f), the ''network station ownership'' rule, and § 73.658(1), the ''secondary affiliation'' rule. The network station ownership rule prohibits network ownership of television broadcast stations in markets that have so few stations, or stations of such unequal desirability that ''competition would be substantially restrained'' by permitting network ownership. The secondary affiliation rule limits secondary network affiliations in markets where two stations have affiliated with two of the three ''traditional'' networks, and there is at least one independent station with comparable facilities. In these circumstances, § 73.658(1) requires a third network seeking an affiliate in the market to offer its programming first to the independent station.

2. The Notice of Inquiry in this proceeding (56 FR 40847, August 16, 1991) sought comment on the implications of the growth of competition in the video marketplace for the Commission's regulatory policies. The Notice of Proposed Rule Making in this proceeding (57 FR 28163, June 24, 1992) sought comments on several long-standing structural rules that have governed the television industry, proposed alternative means of lessening the regulatory burden on the television broadcasting industry, and proposed repeal of the dual network rule 47 CFR 73.658(g), the network station ownership rule, and the secondary affiliation rule. Based on the record in this proceeding, this Report and Order eliminated the network station ownership rule and the secondary affiliation rule.

3. The network station ownership rule was intended to increase the availability of programming to viewers, prevent domination of smaller markets by networks, and encourage the creation and growth of new networks by preventing existing networks from

''bottling up'' the best facilities. The rule was first applied to television in 1946 when there were only six television stations in the United States. The Commission finds that because of the growth in the number of television stations and in network programming made available by cable and satellite home dishes, the network station ownership rule is no longer necessary to increase the availability of video programming to viewers or further the creation of new networks. Therefore, the Commission eliminates § 73.658(f) of its rules.

4. The secondary affiliation rule was adopted by the Commission in 1971 (36 FR 6507, April 16, 1971) in order to promote development of UHF television stations. While commenters were divided as to the continued need for the secondary affiliation rule, the Commission is persuaded that, due to improvements to UHF reception and the increased availability of programming, this rule is no longer needed to ensure the availability of competitive programming to unaffiliated stations. The Commission thus eliminates § 73.658(1) of its rules.

Administrative Matters

Final Regulatory Flexibility Analysis

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, the Commission believes that this action will eliminate rules no longer required by the public interest in view of changes in the video marketplace since their adoption. Additionally, their elimination will make over-the-air television better able to compete in the current, and future, video environment. The complete Final Regulatory Flexibility Act Statement may be found following paragraph 26 of the full text of this Report and Order.

Ordering Clauses

6. It Is Therefore Ordered that, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i) and 303(r), Part 73 of the Commission's Rules, 47 CFR part 73, is amended as set forth below.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Revisions

Part 73 of Title 47 of the U.S. Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334.

§ 73.658 [Amended]

2. Section 73.658 is amended by removing and reserving paragraphs (f) and (l).

[FR Doc. 95–7441 Filed 3–24–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures—Test

AGENCIES: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise its streamlined research and development contracting procedures test.

EFFECTIVE DATE: March 21, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. R.G. Layser, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

The streamlined research and development contracting procedures test is the result of a 1987 Defense Science Board summer group recommendation. The Lab Demo Contracting Subgroup of the Lab Demo project proposed a streamlined procedure for solicitation and a standard format for award of R&D contracts in support of military department laboratories.

The streamlined contracting procedures consist of a solicitation published in the Commerce Business Daily (CBD); terms and conditions incorporated by reference; a supplemental package, if necessary, which is mailed to all interested parties who provide address information. The statement of work may be published in the CBD with the solicitation summary or may be included in a supplemental package. The use of a standard contract is intended to make the contracting process easier on industry, because offerors can expect all DoD laboratories to use the same contract format.

The Department of Defense published a final rule on October 18, 1994 (59 FR 52442) after receiving public comments on the proposed rule. This final rule revises the previous final rule as a result of changes found necessary during initial implementation of the Test.

This final rule revises the list of contracting offices approved to participate in the test of 235.7002(a)(2); the data collection requirements 235.7003(d)(9); and the clauses and provisions included in the exhibit at 235.7006(d). The rule adds the clauses at *(I.168)252.223–7006, Prohibition on Disposal of Toxic and Hazardous Materials, and *(I.169)252.249.7002, Notification of Program Termination or Reduction; deletes *(K.24)252.226–7000, Notice of Historically Black College or University and Minority Institution Set Aside, to correct a duplication; and adds an asterisk (*) to (L.19)52.237–1, Site Visit, to designate that this provision is for use as prescribed in the FAR.

In addition, Test Oversight Committee members may now authorize, for their respective agencies, on a one time only basis, the use of FAR and DFARS provisions and clauses or approved nonstandard provisions and clauses that are not in the research and development streamlined contracting format at 235.7006(d).

A. Regulatory Flexibility Act

The rule does not constitute a significant DFARS revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for comment is not required.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 235

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 235 is amended as follows:

1. The authority citation for part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.70 Research and development streamlined contracting procedures—test.

2. Section 235.7002 is amended by revising paragraph (a) (2) to read as follows:

235.7002 Applicability.

(a) * * *

(1) * * *

(2) Navy: Naval Research Laboratory contracting office; Naval Surface Warface Center contracting offices when contracting for the Carderock, Crane, Dahlgren, Indian Head and Port Hueneme divisions; Naval Undersea Warfare Center contracting office.

* * * * *

3. Section 235.7003 is amended by adding paragraph (d) (9) to read as follows:

235.7003 Reporting requirements.

* * * * *

(d) * * *

(9) At a minimum any request for modification of the research and development streamlined contracting format or procedures, and any request for one time only use of FAR and DFARS provisions and clauses and nonstandard provisions and clauses approved for agency use, that are not in the research and development streamlined contracting format at 235.7006 must include the information required by 201.402(3) (i) through (ix).

235.7004–1 [Amended]

4. Section 235.7004–1 is amended by revising in paragraph (b) the reference ''235.7006(c) (A.1)'' to read ''235.7006(d) (A.1).''

235.7004–2 [Amended]

5. Section 235.7004–2 is amended by revising in paragraph (b) the reference ''235.7006(c) (A.1)'' to read ''235.7006(d) (A.1).''

235.7004–3 [Amended]

6. Section 235.7004–3 is amended by revising in paragraph (c) the reference ''235.7006(c)'' to read ''235.7006(d).''

7. Section 235.7006 is amended by revising in the first sentence of paragraph (a) the reference ''paragraph (c)'' to read ''paragraph (d),'' by revising in the last sentence of paragraph (a) the reference ''(See 235.7006(c) (A.1) (v))'' to read ''(See 235.7006(d) (A.1) (v));'' by redesignating paragraph (c) as paragraph (d); and by adding a new paragraph (c) to read as follows:

235.7006 The research and development streamlined contracting format.

* * * * *

(c) Test Oversight Committee members may authorize for their respective agencies, on a one time only basis, the use of FAR and DFARS provisions and clauses, and nonstandard provisions and clauses approved for agency use, that are not in the research and development streamlined contracting format at 235.7006. Any other modification of the research and development streamlined contracting format or procedures requires approval of the Director of Defense Procurement. Each Test Oversight Committee member shall ensure that the supporting data is accurate and complete.

* * * * *

8. Section 235.7006, Exhibit-Research and Development Streamlined Contracting Format, is amended by adding two contract clauses at the end of the listing at Part II, Section I; by removing and reserving ''K.24'' in the listing at Part IV, Section K; by revising ''(L.15)'', ''(L.18)'' and by revising ''(L.19)'' in Part IV, Section L; and by revising the introductory text at Part IV, Section M to read as follows:

Exhibit-Research and Development Streamlined Contracting Format

* * * * *

Part II—Contract Clauses

Section I, Contract Clauses

(1) Federal Acquisition Regulation clauses.

* * * * *

*(I.167) * * *

*(I.168) 252.223–7006 Prohibition on Disposal of Toxic and Hazardous Materials

*(I.169) 252.249–7002 Notification of Program Termination or Reduction

* * * * *

Part IV—Representations and Instructions

Section K, Representations, Certifications and Other Statements of Offerors or Quoters

* * * * *

*(K.24) [Reserved]

* * * * *

Section L. Instructions, Conditions, and Notices to Offerors or Quoters

* * * * *

(L.15) 52.216–1 Type of Contract (See 235.7006(d)(B.1))

* * * * *

(L.18) 52.233–2 Service of Protest (See 235.7006(d)(A.1)(xvii))

[*](L.19) 52.237–1 Site Visit

* * * * *

Section M, Evaluation Factors for Award

Use of the standard evaluation factors is preferred. If the standard evaluation factors are modified in any way, the modifications must be clearly expressed so that the result is unambiguous. Additions to and deletions from the contents of this Section M must be clearly annotated in the solicitation summary (see 235.7006(d)(A.1)(vii).)

* * * * *

[FR Doc. 95–7429 Filed 3–24–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89–26; Notice 06]

RIN 2127–AF31

Federal Motor Vehicle Safety Standard; Convex Cross View Mirrors on School Buses

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA amends the safety standard on rearview mirrors to reduce the duplication of the views provided by System B mirrors, which provide a view of test cylinders in the area around the front of a school bus and near the rear wheels, and System A mirrors, which provide a view of the area beneath the System A mirrors, along both sides of the bus and to the rear of the bus. The System B mirrors must also provide a view of the ground that overlaps with the view of the ground provided by System A mirrors. As a result of this final rule, the System A mirrors will no longer be required to provide a view of the ground forward of the rear wheels.

The effect of this final rule is that manufacturers will no longer have to install either an additional convex mirror, which creates a larger blind spot for the driver, or replace the existing convex mirror with a highly curved convex mirror that produces more distorted images.

This final rule is issued in response to a petition for rulemaking from Blue Bird Body Company.

DATES: This final rule is effective April 26, 1995. Petitions for reconsideration of this final rule must be received not later than April 26, 1995.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety

Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Mr. Hott's phone number is (202) 366–0247.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 111, *Rearview mirrors,* (Std. No. 111) specifies requirements for the performance and location of rearview mirrors on motor vehicles. Std. No. 111 is intended to reduce the number of deaths and injuries that would otherwise occur if the driver of a motor vehicle did not have a clear and reasonably unobstructed view of the area around the vehicle, especially to the side and rear of the vehicle. With respect to a school bus, Std. No. 111 seeks to ensure that the driver is provided with an adequate view of the area around his or her vehicle, especially when stopped. This reduces the risk of the bus striking students as they board or leave the bus.

Among other requirements, Std. No. 111 specifies that each school bus shall have two outside rearview mirror systems on each side. System A consists of two sets of mirrors mounted adjacent to the driver, one set on the left side of the bus and the other on the right side. Each set includes a flat driving mirror of unit magnification and typically a convex driving mirror. The System A mirror system (the driving mirrors) must provide, among other things, a view of the area of ground, beginning with the ground beneath the System A mirrors and extending at least 200 feet rearward. System B consists of convex cross view mirrors that are mounted ahead of the driver for spotting students when they are near the front of the bus and as they board or leave the bus. To the extent that a seated driver cannot directly see test barrels or cylinders in specified locations around the front of the bus and 12 feet outboard of the rear wheels, the System B mirrors must provide views of the tops of those cylinders. To ensure that there is no blind spot between the views provided by the two mirrors systems, the System B mirrors must also provide a view of the ground that overlaps with the view of the ground provided by the System A mirror system. As a practical matter, this requirement results in the System B mirrors at least partially duplicating the view provided by the System A mirrors of the area of ground extending from the ground beneath the System A mirrors to the ground adjacent to the rear wheels of the bus.

Blue Bird Petition for Rulemaking

Blue Bird Body Company (Blue Bird) petitioned the agency to amend Std. No. 111 by changing the field-of-view requirements for System A mirrors. Blue Bird stated that to comply with the requirement to provide a view beneath the system A mirrors, the System A mirrors on each side of the bus must consist of a flat (unit magnification) mirror plus either a small radius of curvature convex mirror or two convex mirrors. Blue Bird argued that either approach would be impracticable and inconsistent with motor vehicle safety. According to the petitioner, a small radius of curvature mirror would provide unreasonably small and distorted images that would make the mirror unsafe for a driver to use while driving. To avoid the problem of small and distorted images, Blue Bird stated that any convex mirror that is part of System A should have a radius of curvature of at least 35 inches. The petitioner said that adding a second convex mirror would create a larger blind spot in the direct line of sight of the driver past the location of the System A mirrors.

Blue Bird stated that the current requirement for System A mirrors was inconsistent with previous agency statements about problems associated with using highly convex (i.e., small radius) mirrors for driving. Blue Bird further stated that nothing in the NPRM that led to the final rule establishing the requirements for System A mirrors implies that there is a need for those mirrors to provide a view of the area directly below them. Blue Bird asked the agency to immediately amend S9.2(b)(1) and S9.2(b)(2) to specify that System A mirrors (on each side of the bus) need only provide views of the area of the ground that extends rearward from the test cylinders near the rear wheels to a distance not less than 200 feet measured rearward from the rear surface of the mirrors. If the requirements were so amended, the System A mirrors would no longer be required to provide a view of the area of ground that extends from the ground below the mirrors to the cylinders by the rear wheels. This would enable school bus manufacturers to comply with the requirements by providing a flat mirror and a single convex mirror whose curvature would be large enough so that it would not distort the images in the manner described by Blue Bird.

At a meeting with NHTSA personnel, Blue Bird further stated that the installation and use of a driving mirror with a small radius of curvature may result in unsafe driving practices since it distorts image size and shape. The distortions makes it difficult for a bus driver to judge the distance between his or her bus and following vehicles when the driver is attempting to change lanes. Blue Bird alleged that a small radius of curvature mirror provides images of oncoming vehicles that are initially very small and difficult to recognize but then very quickly become much larger and greatly distorted as the vehicles approach the mirror.

Notice of Proposed Rulemaking

On July 11, 1994 (59 FR 35300), NHTSA published a notice of proposed rulemaking (NPRM) to amend Std. No. 111 so that System A mirrors on school buses would no longer be required to provide a view of the area of ground extending from the ground directly beneath the System A mirrors to the test cylinders by the bus's rear wheels. The agency issued this NPRM because it was concerned about the safety effects of the additional or overly small radius of curvature convex mirrors used in System A to provide a view of the ground beneath the System A mirrors.

NHTSA expressed concern that the current requirement may compromise safety because using a small radius of curvature convex mirror would make it more difficult for the driver to use the System A mirrors as driving mirrors because the distorted image from the convex mirror could cause confusion about the actual distance of approaching vehicles. The agency tentatively concluded that using two larger radius of curvature convex mirrors would reduce the driver's direct line of sight as the result of creating a larger blind spot in the vicinity of the System A mirrors. The agency tentatively concluded further that these visual problems resulting from requiring both systems to provide a view of the ground directly beneath the system A mirrors outweigh the safety benefits of that particular overlapping view.

The agency also stated its belief that the proposed amendment would not adversely affect pedestrian safety because System B mirrors would still be required to provide a view of the ground directly below the System A mirrors, as well as the areas alongside the bus to the rear wheels. Further, the two systems would still be required to provide overlapping views of the ground, although not at a location so far forward as the area beneath the System A mirrors.

In an attempt to obtain more detailed information about the extent and significance of the potential safety problems, NHTSA posed the following questions: To what extent does adding a second convex mirror to either set of System A mirrors increase the blind spot created for a driver attempting to look past the System A mirrors? How

significant a safety problem is caused by the increase in the blind spot? How significant a safety problem is caused by the driver's inability, while driving a bus, to use all of the mirrors in a set of System A mirrors that includes a convex mirror with a radius of curvature less than 35 inches? If a manufacturer added a second convex mirror to a System A mirror system, couldn't the driver use the preexisting high radius of curvature mirror as the driving mirror?

Blue Bird had asked NHTSA to ''immediately issue'' its requested change to the standard. In the NPRM, NHTSA discussed why it was required to issue a proposal before deciding to adopt the requested change.

Public Comments and NHTSA Response

In response to the NPRM, NHTSA received a total of five comments. Three comments were from school bus manufacturers; Blue Bird, Mid Bus, Inc. and Thomas Built Buses. The Florida Department of Education and the National Truck Equipment Association also submitted comments. All commenters supported the proposed changes. None of the commenters provided any detailed information about the extent or significance of the potential safety problems.

In support of the proposed changes, Mid Bus stated that when the bus is loading or unloading, the required System A view of the ground between the surface of the mirror and the rear wheels and the System B mirror view are redundant. Mid Bus noted that System B mirrors provide the driver with a view of all the blind spots around the bus and in front of the rear wheels.

Since there were no opposing comments, NHTSA adopts, without changes, the proposed regulatory text for the reasons stated in the NPRM and this notice.

Besides supporting the proposed changes to Std. No. 111, Blue Bird recommended that the standard be amended to prohibit convex mirrors with radii of curvatures less than 35 inches as System A mirrors on school buses, if use of low radii of curvature convex mirrors would compromise safety. In its petition for rulemaking, Blue Bird had argued that convex mirrors with radii of curvature less than 35 inches would provide unreasonably small and distorted images, causing problems if the school bus driver were to look at the convex mirror while the bus was in motion.

NHTSA is not adopting Blue Bird's recommendation. NHTSA believes this final rule's changes to the System A mirror system will have the practical effect that Blue Bird seeks in requesting an outright prohibition. As a result of this final rule's changes to the System A mirror requirements, it will not be necessary for school bus manufacturers to place convex mirrors with small radii of curvature on System A mirrors. However, as is presently the case for drivers of trucks, multipurpose passenger vehicles and non-school buses, the decision whether to put on or use small radii of curvature convex mirrors will be left up to school bus manufacturers and school bus drivers. The agency believes that sufficiently trained and experienced drivers, such as those that drive commercial trucks, can adjust to and safely use the more convex mirrors.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. The agency believes that a full regulatory evaluation is not required because the rule will have only minimal economic impacts. The final rule will not result in any cost savings or cost increases for manufacturers that have been complying with the requirements by providing a flat mirror and a single small radius of curvature convex mirror since that convex mirror will be replaced by a larger radius of curvature mirror. The final rule will result in slight cost savings for manufacturers that have been complying by providing a flat mirror and two convex mirrors. Under this final rule, those manufacturers will now be able to delete one of the convex mirrors.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. School bus manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new school buses. However, any impact on small entities from this action will be minimal since this final rule makes a minimal change that will not impose additional costs. Accordingly, the agency has determined that preparation of a regulatory flexibility analysis is unnecessary.

C. National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

E. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. section 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. section 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. In § 571.111, S9.2 is revised to read as follows:

§ 571.111 Rearview Mirrors.

* * * * *

S9.2 System A shall be located with stable supports so that the portion of the system on the bus's left side, and the portion on its right side, each:

(a) Includes at least one mirror of unit magnification with not less than 322.60 square centimeters (50 square inches) of reflective surface; and

(b) Includes one or more mirrors which together provide, at the driver's eye location, a view of:

(1) For the mirror system on the right side of the bus, the entire top surface of cylinder N in Figure 2, and that area of the ground which extends rearward from cylinder N to a point not less than 60.93 meters (200 feet) from the mirror surface.

(2) For the mirror system on the left side of the bus, the entire top surface of cylinder M in Figure 2, and that area of the ground which extends rearward from cylinder M to a point not less than 60.93 meters (200 feet) from the mirror surface.

* * * * *

Issued on: March 20, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–7348 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Determination To Retain the Threatened Status for the Coastal California Gnatcatcher Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of determination.

SUMMARY: The Fish and Wildlife Service (Service), announces a determination affirming its earlier conclusion (March 30, 1993; 58 FR 16742) that the coastal California gnatcatcher (*Polioptila californica californica*), a small, insectivorous songbird, is a distinct subspecies and, thus, meets the definition of a ''species'' pursuant to the Endangered Species Act of 1973, as amended (Act). In addition, the Service affirms its earlier conclusion (58 FR 16742) that the southern limit of this subspecies extends to about 30° north latitude near the vicinity of El Rosario, Baja California, Mexico. Based on these determinations, the Service concludes that its March 30, 1993, decision that the coastal California gnatcatcher is a threatened species was correct. Federal protection for the coastal California gnatcatcher is thus continued.

EFFECTIVE DATE: March 23, 1995.

ADDRESSES: The complete administrative records and files for this determination and all related rule promulgations and notices are available for inspection, by appointment, during normal business hours at the Fish and Wildlife Service Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008.

FOR FURTHER INFORMATION CONTACT: Mr. Gail C. Kobetich, Field Supervisor, at the above address (telephone 619/431–9440).

SUPPLEMENTARY INFORMATION:

Background

The coastal California gnatcatcher (*Polioptila californica californica*), a subspecies of the California gnatcatcher, is a small, long-tailed member of the thrush family Muscicapidae. The subspecies is restricted to California and Baja California, Mexico, and is an obligate resident of coastal sage scrub, which is one of the most depleted habitat types in the United States (58 FR 16742). The plumage color of the species is dark blue-gray above and grayish-white below. The tail is mostly black above and below. This subspecies is distinguished from the other subspecies by its darker body plumage, less extensive white on tail feathers (rectrices 5 and 6), and longer tail (Atwood 1991). The male has a distinctive black cap that is absent during the winter. Both sexes have a distinctive white eye-ring. Vocalizations of this species include a call consisting of a rising and falling series of three kitten-like mew notes (National Geographic Society 1983).

The California gnatcatcher was originally described as a distinct species (*Polioptila californica*) by Brewster (1881) based on specimens collected by Stephens in 1878. Later taxonomic treatments (e.g., Coues 1903 and Chapman 1903) reflected Brewster's (1881) conclusions. Grinnell (1926), however, later concluded that the species was a form of the black-tailed gnatcatcher (*Polioptila melanura*), which inhabits the Sonoran and Chihuahuan Deserts of the southwestern United States and northwestern Mexico. Subsequent scientific publications (American Ornithologists' Union 1931, Grinnell and Miller 1944, Friedmann 1957, American Ornithologists' Union 1957) adhered to the species limits as defined by Grinnell (1926). Three subspecies of the black-tailed gnatcatcher were recognized for southwestern California and western Baja California, Mexico: *P. m. californica* (ranging from Los Angeles County, California (formerly northward to Ventura County), south to about 30° north latitude in Baja California, Mexico), *P. m. pontilis* (resident in central Baja California), and *P. m. margaritae* (ranging from about 27° north latitude south to the Cape region of Baja California) (American Ornithologists' Union 1957).

Based on identified differences in ecology and behavior that were elucidated as a result of specimen study and statistical analysis, Atwood (1988) proposed that *Polioptila californica* was specifically distinct from *P. melanura.* This finding was subsequently formally adopted by the American Ornithologists' Union Committee on Classification and Nomenclature (American Ornithologists' Union 1989), thus affirming Brewster's (1881) original taxonomic placement with respect to species. The American Ornithologists' Union 1989 publication did not address subspecies other than to refer the reader to the American Ornithologists' Union 1957 checklist of North American birds.

The coastal California gnatcatcher, *Polioptila californica* (=*melanura*) *californica,* has been recognized as a distinct race or subspecies since Grinnell's (1926) publication (e.g., American Ornithologists' Union 1931, Grinnell and Miller 1944, Friedmann 1957, American Ornithologists' Union 1957, Garrett and Dunn 1981, Unitt 1984, Phillips 1991, Atwood 1991). As indicated above, this subspecies occurs from Los Angeles County (and, formerly, Ventura County) south to about 30° north latitude in Baja California, Mexico. Although Atwood (1988) proposed merging *P. californica californica* with a more southerly subspecies of *P. californica,* he later (1991) retracted this conclusion.

On March 30, 1993, the Service published a final rule determining the coastal California gnatcatcher (*Polioptila californica californica*) to be a threatened species (58 FR 16741). In making this determination, the Service relied, in part, on taxonomic studies conducted by Dr. Jonathan Atwood of the Manomet Bird Observatory. As is standard practice in the scientific community, the Service did not request, nor was it offered, the data collected and utilized by Atwood in reaching his conclusions. Instead, the Service cited the conclusions presented by Atwood in a peer reviewed, published scientific article pertaining to the subspecific taxonomy of the California gnatcatcher (Atwood 1991).

The Endangered Species Committee of the Building Industry Association of Southern California and other plaintiffs subsequently filed a suit challenging the listing on several grounds. In a Memorandum Opinion and Order filed in the United States District Court for the District of Columbia on May 2, 1994, the Court vacated the listing determination, holding that the

Secretary of Interior (Secretary) should have made available the underlying data that formed the basis of the Atwood (1988) report in light of the controversy surrounding inconsistent conclusions reached by Atwood in his 1988 and 1991 studies.

Following the Court's decision, Atwood released his data to the Service. These data were, in turn, made available to the public for review and comment on June 2, 1994 (59 FR 28508). By order of June 16, 1994, the Court reinstated threatened status for the coastal California gnatcatcher pending a determination by the Secretary whether the listing should be revised or revoked in light of his review of the subject data and public comments received during public comment periods. This notice constitutes the Service's determination in response to the Court's June 16, 1994, order.

Summary of Comments and Recommendations

A proposed rule to list the gnatcatcher as endangered was published on September 17, 1991 (56 FR 47053). Public comments were solicited and two public hearings were held on the proposed rule. Notification of the hearings was published in the **Federal Register** on February 7, 1992 (57 FR 4747). A legal notice announcing the hearings and inviting general public comment on the proposal was also published on February 7, 1992 in the *Los Angeles Daily News, Los Angeles Times, Riverside Press-Enterprise*, and the *San Diego Union-Tribune*. Public hearings were conducted in Anaheim, California, on February 25, 1992, and in San Diego, California, on February 27, 1992. A notice of extension and reopening of the comment period for 30 days to obtain additional information on gnatcatcher taxonomy was published on September 22, 1992 (57 FR 43688). On February 11, 1993, the Service published a notice announcing the reopening of the public comment period on the proposed rule for 20 days and the availability of a report prepared by Service taxonomists on the taxonomic validity of *P. c. californica* (58 FR 8032). On March 30, 1993, the Service published a final rule determining the coastal California gnatcatcher to be a threatened species (58 FR 16741). That same day, a proposed special rule pursuant to section 4(d) of the Act was published (58 FR 16758). The final special rule was published on December 10, 1993 (58 FR 65088).

Following the Court's Order of May 2, 1994, and receipt of Atwood's data, the Service announced the availability of these data and the opening of a public comment period on June 2, 1994 (58 FR 28508). Atwood's data were sent to 15 parties upon request. With the approval of the Court, the public comment period was extended to December 1, 1994 (59 FR 53628), to allow the public additional time to receive and then comment upon the raw data and methodology utilized by Atwood.

During this 6-month public comment period, Dr. William Link and Mr. Grey Pendleton of the National Biological Service, Department of the Interior (Department), conducted a new and independent analysis of Atwood's data (Link and Pendleton *in litt.* 1994). To assure that the Service utilizes the best scientific information available in the implementing the Act, it is policy (59 FR 34270) to seek independent review of the scientific basis for listing and recovery actions. Consistent with this policy, the Service solicited comments on the National Biological Service document and all other public comments received by December 1, 1994, from the general public, including scientists with an expertise in avian taxonomy. A new 30-day public comment period (59 FR 66509) was opened on December 27, 1994, to allow the public to review and comment on these documents. This final comment period closed on January 26, 1995.

A total of 31 comments pertaining to either (1) Atwood's data, methodology, or results, or (2) the taxonomy of the gnatcatcher was received during the final two comment periods. This total includes 21 comments received prior to December 1, 1994, and an additional 10 comments received during the final comment period. Included among the comments were three new, independent analyses of Atwood's data. After a review and consideration of all such comments, five relevant issues have been identified and are discussed below. The five issues encompass all substantive comments pertaining specifically to Atwood's data, analyses, and conclusions regarding the taxonomy and geographic range of the coastal California gnatcatcher.

Issue 1: Several commenters noted that Atwood's apparent discarding of raw data precludes an appropriate analysis of his conclusions. One commenter in particular was disturbed that ''Atwood no longer has the raw data used in his original analyses.'' Another commenter noted that Atwood admitted to discarding computer programs used in the analysis of the data subsequently analyzed and reported in his 1991 publication. Some stated that differences existed between the data sets used in Atwood (1988), Atwood (1991) and that provided to the Service and the public (Atwood *in litt.* 1994a).

Service Response: Atwood (*in litt.* 1994b) has stated that the measurements provided to the general public following the May 2, 1994, Court Order ''represent the total and unmodified data set that formed the basis for my 1988 and 1991 publications on gnatcatcher morphology.'' Atwood (*in litt.* 1994b) also indicated that only one difference existed between the computer file data set transmitted to the public and the data on the original paper forms that he discarded after entering the data into a computer file, the sex of a single specimen from sample area SI29 was corrected. Atwood (*in litt.* 1994b) further indicated that he verified (in 1985) the data on the computer by comparing it with the hand-written information on the paper forms. The Service concludes that there is no reason to doubt the veracity of Atwood in this regard.

Because data on paper forms cannot readily be subjected to statistical analysis, the data transferred to a computer or computer disk are, in essence, the raw data at issue. The Service, therefore, rejects the contention that Atwood discarded his raw data, thereby precluding reanalysis of the data.

After providing his data, Atwood realized that discrepancies in sample size existed between data reported in his dissertation, his monograph (Atwood 1988), his subspecies paper (Atwood 1991), and data provided to the Service. He noted that for site SI29 there was a discrepancy with respect to one female and one male specimen and concluded that he had corrected the sex for one individual. His dissertation revealed 14 specimens for sites PP28 and MA30, whereas the Service data includes 13 specimens for site PP28 and 15 for site MA30. Atwood believes that this discrepancy was the result of correctly placing one specimen in site MA30 rather than PP28. These two corrections resulted in apparent discrepancies. Atwood was unable to explain an additional discrepancy, in his dissertation he reported 19 female specimens for site SD24, whereas the data provided to the Service indicates 20 female specimens for site SD24; Atwood suggested that a typographical error had occurred.

Atwood discovered numerous discrepancies between the sample sizes for his monograph (Atwood 1988) and the data given to the Service (amounting to 15 more male specimens and 7 fewer female specimens reported in the Service data set). Atwood could not conclusively explain these

discrepancies, but suspected that they were associated with the differing lengths of data set lines that may have caused the SAS program to skip lines or combine lines of data. He suggested that this problem may also have affected his analyses of the data presented in the 1988 monograph. He indicated that because of these potential problems, he felt that it is inappropriate to rely upon the 1988 monograph with respect to subspecific conclusions, although the conclusions with respect to species were unaffected, and are valid. However, programming errors would not have affected the original data set.

Atwood (*in litt.* 1994a,b) has acknowledged that one of the 213 samples in the data set provided to the public was not used in his 1991 study or in his previous, unpublished status review of the gnatcatcher. Atwood (*in litt.* 1994b) believes that the excluded specimen was that designated YP2717, an aberrant specimen (possibly a black-tailed gnatcatcher or interspecies hybrid) collected in 1885. In Atwood's subsequent reanalysis of the original data set, specimen YP2717 was excluded from the data set because it differed from its sample area mean by more than 3 standard deviations (Atwood *in litt.* 1994b).

The sample size discrepancies for all reports, except the 1988 monograph, are very minor, and would not have affected the overall conclusions of the authors. Atwood (1994b) has characterized the analysis of his 1988 monograph as being ''seriously flawed'' with respect to data processing. The sample size discrepancies between Atwood's other reports, and the 1988 monograph are likely due to these data processing problems, and not the result of changes made to the data set. The Service, therefore, concludes that the data set provided by Atwood to the Service adequately duplicates the data originally written on paper forms.

Issue 2: One commenter noted that two of Atwood's publications (1988 and 1991) were contradictory in that they proposed different geographic ranges for the taxon of California gnatcatchers occurring in the United States. This same commenter suggested that Atwood's (1991) retraction of his original (1988) conclusions pertaining to the subspecies taxonomy of the California gnatcatcher was prompted by his desire to affect the listing of the species.

Service Response: While the record indicates that Atwood believes that the listing of the coastal California gnatcatcher is warranted, the record also indicates that Dr. Atwood's revised conclusion about the subspecific geographic limits of *Polioptila californica californica* resulted from his 1991 reanalysis of the data cited in his 1988 monograph. The (1988) monograph had received peer review critical of its findings.

The Service receives dozens of petitions to list or delist species each year. The Act requires the Service to conduct an independent review of each of these petitions, and to make final decisions on the basis of the best scientific data available. The motives of the petitioners, as with commenters, are not relevant to the Service's decisions on these issues.

Issue 3: Several commenters alleged fundamental flaws in the data used by Atwood (1991) in generating his conclusions. In particular, commenters suggested or concluded that the data appeared to be incomplete, or non-random (i.e., ''censored''). Several commenters were concerned that the variables were ''confounded'' (i.e., the effects of two or more factors on a response variable could not be separated) due to the age or condition of certain specimens. These commenters indicated that for the northern sites nearly all specimens were collected prior to 1940, and none of the specimens from the remaining sites were collected prior to 1920. One commenter noted that a potential exists for serious bias in the data due to specimen ''foxing'' (i.e., browning with age). Another commenter noted, citing relevant published scientific literature, that body size and plumage brilliance and iridescence can reflect variation in specimen condition. Some of these commenters suggested that differences in characters among sites may be the result of the age of the collection, and not the site from which they were collected.

Service Response: On behalf of the Service, the National Biological Service independently conducted a new analysis of Atwood's data (Link and Pendleton *in litt.* 1994). Three additional independent analyses of the data were also submitted during the comment period.

In response to one commenter's concern that the data appeared to be a non-random sample of California gnatcatchers, the National Biological Service (Newton, *in litt.* 1995) replied that although these are valid concerns, they are not proof, as acknowledged by the commenter, that Atwood's data are not representative. One commenting ornithologist who was largely critical of Atwood's (1991) analyses nevertheless concluded that ''[t]he data set gathered by Atwood was quite comprehensive and included measurements from a large number of specimens throughout the range of the species.'' In the Memorandum Opinion and Order filed May 2, 1994, the Court declared, citing the declaration of this ornithologist, that ''it is not disputed that Atwood's means of collecting data were proper.''

After noting the possible problem of the age of the specimen being confounded with the collection site, the authors attempted to adjust the data for year or month the data was collected. McDonald *et al.* (*in litt.* 1994) removed specimens collected from May to September and thus avoided problems associated with feather wear. Link and Pendleton (*in litt.* 1994) adjusted several characters for month and year based on the results of regression analyses. Messer (*in litt.* 1994) conducted two of her analyses by limiting the specimens to those collected between 1920 and 1940, and 1980 to 1984. Link and Pendleton (*in litt.* 1994) were cautious and indicated that they may not have removed all of the confounding effects; however, they also indicated that they may have over adjusted the data and removed differences due to sites.

After adjusting the data for year and month of collection, Link and Pendleton (*in litt.* 1994) obtained results similar to the unadjusted data. Messer (*in litt.* 1994) was able to classify the northern birds from the southern birds using specimens collected from 1980 to 1984 correctly in 84 percent of the cases, and using birds collected from 1920 to 1940 in 94 percent of the cases. The results of McDonald *et al.* (*in litt.* 1994) also yielded weak evidence of a break at 30° north latitude, even though they had removed birds collected during certain months of the year. Atwood (*in litt.* 1994b) also had similar results before and after he excluded the variable brightness of breast plumage (a variable that would have changed as a specimen aged) from his analysis.

Given the above considerations and results, the Service finds no justification or cause for concluding that Atwood's data were incomplete, censored, or otherwise inadequate. Further, the Service concludes that the available information does not support the hypothesis that the confounding of variables is responsible for erroneous conclusions regarding perceived breaks in the morphology of the coastal California gnatcatcher. The Service concludes that the analysts took adequate care to remove the possible effects of confounding of age of specimen and collection area.

Issue 4: The Service received four significant analyses and a number of critiques of each of the analyses of Atwood's data. Each commenter

attempted to answer a different question, and consequently, each of the analyses used somewhat different statistical techniques, and drew somewhat different conclusions. Some of the commenters concluded that the clinal nature of the data would argue against subspecies; or that a primary break occurs further south and would argue that if there are subspecies, the boundary line should be drawn further south in Baja California. Others argued that the data are clumped (consistent with a subspecific break); or that the birds north of 30° north latitude are different from the birds south of 30° north latitude. The Service analyzed these reports to draw a conclusion regarding whether the data support Atwood's 1991 conclusions.

Service Response: Several commenters produced new analyses of the data provided by Atwood. Atwood (*in litt.* 1994b) also provided an additional taxonomic analysis of the data. With the exception of Atwood (*in litt.* 1994b), all of the authors (Messer *in litt.* 1994, Link and Pendleton *in litt.* 1994, and McDonald *et al. in litt.* 1994) explicitly stated that their expertise is in statistics, and that taxonomic conclusions should be left to taxonomists. The Service has carefully reviewed each of these analyses and critiques to examine the strengths and the weaknesses of each approach. A summary of these analyses follows.

Atwood (*in litt.* 1994b) presented a reanalysis of his data using $\log_{10}$ transformations of 6 variables (bill length, tarsus length, wing length, tail length, length of white spot on a tail feather (retrix 6), and brightness of breast plumage). In one analysis, he excluded the variable ''brightness of breast plumage'' because Mellink and Rea (1994) found readings inconsistent, even when resampling a single specimen. Atwood used a Tukey-Kramer method to conduct pairwise comparisons of the sample area means. He also conducted a principal components analysis (a method of determining how the data are intercorrelated, and reducing intercorrelated data to a principal component score) of the data and performed a cluster analysis on the first two principal component scores as well as on the original variables. Tail length, tail spot length, and brightness of breast plumage varied significantly among sample areas (all $P<0.001$), and multiple comparison tests revealed a grouping, or ''step,'' at 30° north latitude. The cluster analyses grouped sites north of 30° north latitude together, and variously grouped sites to the south. Atwood's methods show that regional means may be clumped, but do not show whether individual birds can be placed correctly into these groups.

Link and Pendleton (*in litt.* 1994) used regression analysis of mean latitudes of Atwood's (1991) nine sample areas against 25 characters. They determined that the data vary along a geographic gradient. Link and Pendleton (*in litt.* 1994) then conducted a series of tests to determine if the characters were representative of gradual change or of groupings. They used multivariate analysis of variance (MANOVA) to place the original 9 sites into the best groupings of 8 sites, 7 sites, 6 sites, 5 sites, 4 sites, 3 sites and 2 sites. Abbott *et al.* (1985), in their book on taxonomic analysis, recommended the use of canonical variate analysis (MANOVAs) for delineation of subspecies, where the data are continuous and the data are preclassified into postulated groups. Akaike's information criterion (AIC) was used by Link and Pendleton (*in litt.* 1994) to determine which grouping best fit the data. Link and Pendleton (*in litt.* 1994) conducted discriminant function analysis to determine if they could correctly classify birds into groups. Hotelling's t^2 test was used to test the significance of the results. Cluster analysis and discriminant coordinates were computed on the individual specimens to see how the data was clumped. Finally, they attempted to adjust the data for time effects (see issue 3 above).

Link and Pendleton (*in litt.* 1994) obtained similar results in each of these tests. They concluded that the changes in the characters are more representative of groupings than of gradual change. They determined that, at least one break occurs north of site 5 (mean latitude of site 5 is 29.5° north latitude) and at least one break occurs south of site 5. The use of MANOVA would reduce the likelihood of Type 1 error (reporting differences that do not exist) that would occur if you looked at each variable separately. The AIC is not prone to overfitting, and can be used to determine the model that best fits the data. The AIC does not have an associated statistical test for significance, and therefore, the groups identified in this manner may not represent actual groupings (Newton *in litt.* 1995). Though Newton (*in litt.* 1995) also indicated that Atwood's (*in litt.* 1994b) cluster analysis would have been more useful if he had used individual specimens rather than group means, Link and Pendleton's (*in litt.* 1994) cluster analysis did use individual specimens and yielded groups similar to their MANOVA results, creating a stronger basis for their conclusions.

Messer (*in litt.* 1994) examined whether the birds north of 30° north latitude can be distinguished from the birds south of 30° north latitude. She used multivariate discriminant analysis to classify birds into northern and southern subgroups with the boundary set at 30° north latitude. Discriminant analysis is used when one is examining a categorical dependent variable (e.g., north or south of 30° north or one of 9 sites) and metric independent variables (e.g., measurements of gnatcatcher characteristics). Discriminant analysis would test whether the means among groups are equal. Using several subsets of the data (e.g., limiting years of collection to remove time effects, or in developing a model with one set of data and another to test the model), Messer (*in litt.* 1994) concluded that one could correctly classify the birds as being from the northern or southern areas with 86 to 92 percent accuracy.

McDonald *et al.* (*in litt.* 1994) conducted their analyses using individual specimens, and estimated the latitude based upon the locality description given by Atwood in his original data set. They removed specimens collected from May through September to avoid data problems due to feather wear and molting, and attempted to adjust some data for year of collection. To examine how the data are intercorrelated, they conducted principal components analysis on size, color, and pattern variables separately. McDonald *et al.* (*in litt.* 1994) conducted Gabriel's sum of squares simultaneous test procedure on the first principal component scores and on the original variables. McDonald *et al.* (*in litt.* 1994) conducted an intervention analysis to look for steps or breaks in the trends in means. In addition, they conducted a discriminant function analysis to determine whether birds could be correctly classified at various latitudes.

The results from the Gabriel's test indicated that there were significant differences in means of the first principal component at 24° north latitude, and that for some of the size variables there was weak evidence for a trend in means at 28° north latitude or 27° north latitude. There was weak evidence for difference in the means at 30.5° north latitude for the first principal component for color variables. The intervention analysis revealed a significant rate of change for 4 of the 16 individual size variables (page 6) at 30° north latitude ($P< 0.10$). The discriminant function analysis revealed that the lowest misclassification rate was at 24° north latitude (4 percent). The misclassification rate at 30° north latitude was 13 percent (a 25 percent

misclassification rate is generally acceptable for many subspecific groups).

McDonald *et al.* (*in litt.* 1994) used principal components analysis (a method to reduce intercorrelated data to a single principal component score) on size, color, and pattern variables separately. This analysis may have been done to group data by measurement type (e.g., units of length, weight, etc.), as is recommended in some statistics books (Newton *in litt.* 1995). Other statistics texts (e.g., Hair *et al.* 1995) apparently do not recommend grouping like measurements. A more exhaustive approach to principal components analysis would have been to do the analysis on all variables simultaneously, then exclude size variables, then pattern variables, and so forth (Newton pers. comm. 1995). In that manner, McDonald *et al.* may have detected additional intercorrelations among gnatcatcher characteristics.

McDonald *et al.* (*in litt.* 1994) presented a stronger case for breaks in characters south of 30° north latitude than they did for characters found at 30° north latitude. Atwood (1991, *in litt.* 1994), and Link and Pendleton (*in litt.* 1994) also found breaks south of 30° north latitude. The evidence of at least one break south of 30° north is supportive of Atwood's (1991) conclusion of an additional subspecific break. McDonald *et al.* (*in litt.* 1994) provided the strongest evidence against Atwood's (1991) conclusions. Nonetheless, they found weak statistical results supporting a break at 30° north latitude (Gabriel's SS-STP and intervention analysis). They also acknowledged that Gabriel's test may not have detected differences in the critical region, where Atwood concluded changes occur, because this test is sensitive to small sample sizes (i.e., an investigator needs a large number of individual records before the test will detect differences). Thus, in this portion of the analysis of McDonald *et al.*, the possibility of a Type 2 error or accepting the null hypothesis when it should be rejected (i.e., believing that there is no break in characters when in fact one does occur) was higher than the possibility of a Type 1 error or rejecting the null hypothesis when it should be accepted (i.e., believing that there is a break in characters, when in fact no break exists).

McDonald *et al.* (*in litt.* 1994) also used ''intervention analysis'', a procedure normally used when an experimenter intervenes in some way (i.e., provides medical treatment) and wants to evaluate whether changes in behavior or performance are statistically significant (Edgington 1987). McDonald *et al.* (*in litt.* 1994) apparently used this approach to see if changes at various latitudes resulted in a sharp step. McDonald *et al.* (*in litt.* 1994) provided limited details of this method, which they modified and ''tested using data from the literature.'' Therefore, the Service was unable to fully evaluate this method, which apparently is not commonly used. Messer (*in litt.* 1995), however, indicated that the technique is a ''nonparametric (and thus less powerful) version of linear regression analysis.''

McDonald *et al.* (*in litt.* 1994) did find weak statistical evidence for a break in characters at 30° north latitude, and were able to distinguish the birds north and south of this line with a 13 percent error rate. In evaluating their techniques, the Service notes that McDonald *et al.* (*in litt.* 1994) used techniques that were less exhaustive, or that were less well known, or that may have been more likely to result in a Type 2 than in a Type 1 error than techniques used by the other authors. The techniques of McDonald *et al.* (*in litt.* 1994) appeared more likely to accept the null hypothesis (e.g., there is no subspecific break in gnatcatchers at about 30° north latitude). Given the selection of statistical techniques by McDonald *et al.* (*in litt.* 1994), and that Atwood (*in litt.* 1994), Link and Pendleton (*in litt* 1994), and Messer (*in litt.* 1994) found evidence for a break at 30° north latitude, the Service concludes that the weak statistical evidence of a break at 30° north latitude presented by McDonald *et al.* should be given greater credence.

In summary, the MANOVA conducted by Link and Pendleton (*in litt.* 1994) and cluster analysis conducted by Atwood (*in litt.* 1994) are supportive of groupings of birds rather than a cline. Use of cluster analysis by Link and Pendleton (*in litt.* 1994) on individual specimens provides stronger evidence that groups or ''steps'' exist in characters. In addition, efforts by McDonald *et al.* (*in litt.* 1994) and Messer (*in litt.* 1994) to determine correct classification rates provide further evidence that gnatcatcher variance along a geographic gradient is more indicative of groupings than of a gradual cline. The misclassification rates at 30° north latitude were well within the range acceptable for subspecies.

Each author utilized different statistical methods to analyze the data and draw conclusions. As a first step, the authors investigated whether they could separate the means among various groupings of the data. Atwood (*in litt.* 1994b) used a Tukey-Kramer multiple comparison procedure to determine if the means of individual variables among previously selected groups could be separated. Link and Pendleton (*in litt.* 1994) used Hotelling's t^2 on the groupings identified in their MANOVA analysis to determine if the means could be separated. McDonald *et al.* (*in litt.* 1994) used Gabriel's method to determine differences in means at selected latitudes. Each of these approaches was successful in separating means among groups of gnatcatchers.

The investigators next examined whether there might be steps in these changes, or whether one could correctly classify (or place) the birds within these groups. Messer (*in litt.* 1994) conducted a multivariate discriminant analysis and found that the birds could be classified into a groups north and south of 30° north latitude with an error rate of about 10 percent. Link and Pendleton (*in litt.* 1994) conducted a clustering analysis to group individual specimens into clusters and examined the overlap between the clusters and the groupings identified in the MANOVA. McDonald *et al.* (*in litt.* 1994) conducted a discriminant function analysis to identify latitudes that separate the range of the bird into 2 groups with minimal misclassification rates. Each of these approaches showed a break in the characters at 30° north latitude, and was supportive of Atwood's (1991) conclusions.

In a statistically pure sense, these methods are exploratory in nature and were useful in identifying hypotheses that could be tested with respect to the gnatcatcher. To formally test these hypotheses, an investigator would need to make similar measurements on newly gathered gnatcatcher specimens. Issue 5 below discusses the Service's response to this point. However, it is important to understand that statistics are a tool used to assist an investigator in drawing conclusions in that they can help quantify uncertainties with respect to those conclusions (Newton pers. comm. 1995). The investigator still needs to evaluate the practical significance of results, and should not focus exclusively on statistical significance (Abbott *et al.* 1985, Hair *et al.* 1995, Mayr *et al.* 1953). Statistics do not remove or supplant the need to make informed decisions with respect to any data set. Messer (*in litt* 1994), Link and Pendleton (*in litt.* 1994), and McDonald *et al.* (*in litt.* 1994) all explicitly recognized that taxonomic decisions should be made by taxonomists.

The misclassification rates identified by Messer (*in litt.* 1994) and McDonald *et al.* (*in litt.* 1994), and the overlap in many of the characters show that these

groupings of gnatcatchers are not entirely discrete. Abbott *et al.* (1985) noted that taxonomists expect ''variation within species to involve either a continuum or at least some continuity or overlapping between forms.'' If the groupings of California gnatcatcher were entirely discrete, avian taxonomists likely would have assigned these groupings to separate species. Mayr (1970) defined subspecies as ''an aggregate of phenotypically similar populations of a species inhabiting a geographic subdivision of the range of a species and differing taxonomically from other populations of the species.'' Mayr (1970) concluded that the magnitude of taxonomic difference necessary to appropriately decide when subspecies should be delimited ''can be determined only by agreement among working taxonomists.''

Grinnell (1926), Phillips (1991), and Atwood (1991) identified 30° north latitude as a boundary between *Polioptila californica* (=*melanura*) subspecies. Recent work suggests that the southern boundary of *P. c. californica* may be further north, near the international boundary between the United States and Mexico (Mellink and Rea 1994). Mellink and Rea (1994) placed the birds between the international border and 30° north latitude in a new subspecies. Atwood identified another subspecific break south of 30° north. McDonald *et al.* (*in litt.* 1994) and Link and Pendleton (*in litt.* 1994) also noted a break south of 30° north latitude, consistent with Atwood's (1991) conclusion of an additional subspecific break. The consensus among working taxonomists supports recognition of *P. c. californica,* albeit its range may be more restricted than that proposed by Atwood (1991). Therefore, the Service concludes that a finding that 30° north latitude as the southern specific boundary of *P. c. californica* is supported by the available scientific evidence. Until additional taxonomic work is published and accepted by the ornithological community, the Service will recognize 30° north latitude as the southern subspecific boundary of *P. c. californica.*

Issue 5: Several commenters stated that analyses of a newly collected independent data sets should be done to clarify gnatcatcher taxonomy or resolve differences of opinion among the various commenters. One commenter urged the Service to ''dismiss the subspecies issue for gnatcatchers (pending further study) and focus on the management of U.S. populations.'' Another commenter concluded that ''a rigorous analysis of both morphometric, reflectance, genetic, and other chemical data are required to address the problem in the clearest possible manner.'' Other commenters added that the gnatcatcher should not be listed until the perceived taxonomic controversy is resolved.

Service Response: The Service fully endorses and encourages efforts to assess and refine the taxonomic status of all species, including the coastal California gnatcatcher, provided that any collection of specimens associated with such efforts does not result in unacceptable mortality or other impacts. However, in making listing determinations, section 4(b) of the Act requires the Service to make its listing decisions within set timeframes and requires the Service to base its listing decisions on the best scientific and commercial data available at the time of the decision. The Service is not authorized to delay listing decisions until all studies of arguable utility are completed, until scientific debate is exhausted, or until complete consensus occurs. The Service cannot await the ''next study,'' which may or may not occur and which may or may not be affirmed by the scientific community through the appropriate peer review process.

Efforts to conduct further analysis on the taxonomy and subspecific limits of the California gnatcatcher would be costly and time consuming. One could seek additional museum records not analyzed by Atwood, or could collect new specimens. Collecting new specimens could result in unacceptably high mortality. Moreover, collecting new field specimens prior to making a final decision on this issue is not practical. Alternatively, investigators could capture birds in mist nets and obtain these measurements from live individuals, which would then be released. However, additional researchers would be unable to verify the results by visiting a museum and repeating the measurements. As stated above under issue 4, the Service was charged with evaluating whether Atwood's data supported his conclusions, and not with carrying out additional studies to remove any and all controversy surrounding the taxonomy of the *Polioptila californica* subspecies.

Conclusion

The Service has been charged with scrutinizing data and conclusions rendered by Atwood, and determining if his data support his conclusions. The Act provides that the Service must render its determination on the basis of the best scientific and commercial data available. The Service has made a concerted effort to obtain and accurately assess the best scientific and best commercial information available regarding the taxonomy and range of the coastal California gnatcatcher. As an integral part of this process, the Service's statutory mandates and standard scientific protocol require that we recognize and act in accordance with the concepts, conventions, and practices of the scientific method. To this end, the Service must seek and seriously consider (1) data and analysis published in peer reviewed, scientific journals, (2) the opinions of recognized experts in given scientific disciplines, and (3) the input of the interested public.

In this effort the Service has reviewed the analyses of the data used by Atwood in his 1988 and 1991 papers. The Service finds that the conclusions reached by Atwood (1991) are reasonable, and are generally supported by the additional analyses received.

Under any circumstances that pertain to the taxonomy of North American bird species, the Service actively seeks the publications, input and expert opinion of the American Ornithologists' Union (AOU) and its constituent Committee on Classification and Nomenclature (Committee). The Committee and its publication (*Check-list of North American Birds*) are recognized by the Service, scientists, and scientific organizations throughout the world as authorities on avian taxonomy in North America. Although the AOU has formally published its positions on the taxonomy of the California gnatcatcher and coastal California gnatcatcher (American Ornithologists' Union 1957, American Ornithologists' Union 1989), the Service, nonetheless, made a concerted effort to solicit and receive the recent, unequivocal, expert opinion of the Committee and its members. During a past, prescribed public comment period, the Service received responses from four members of the Committee (including the Committee chair). The Committee members were unanimous in acknowledging that *Polioptila californica californica* is currently accepted as a distinct subspecies and that its southern distributional limit occurs at 30° north latitude.

In addition to independently seeking and reviewing the best scientific information available from expert sources pertaining to the taxonomic status of coastal California gnatcatcher, the Service also repeatedly solicited comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, and any other party interested in gnatcatcher taxonomy and all other aspects of the listing decision. In

response to these requests for comments, the Service received a wide variety of public comments and opinions, which are discussed earlier in this notice.

The Service has carefully considered all public comments received, separate and independent analyses of Atwood's data, the National Biological Service's (Link and Pendleton *in litt.* 1994) analysis of the data, subsequent review of all technical submittals from the National Biological Service (Newton *in litt.* 1995) and other interested parties, the existing scientific literature, and the information presented in the final listing rule designating the gnatcatcher as threatened (58 FR 16742). As a result, the Service concludes that the taxonomy and geographic limits of the coastal California gnatcatcher are as provided by Grinnell (1926, 1928) van Rossem (1931), American Ornithologists' Union (1931), Grinnell and Miller (1944), Friedmann (1957), American Ornithologists' Union (1957), Paynter (1964), Garrett and Dunn (1981), Atwood (1991), and Phillips (1991). All of these scientific, peer reviewed, publications present conclusions or affirmations that the gnatcatcher (*Polioptila californica californica*) is restricted to coastal southern California and northwestern Baja California, Mexico, from Los Angeles County (and formerly Ventura County) south to the vicinity of El Rosario at about 30° north latitude.

The Service determines that the coastal California gnatcatcher is a distinct taxon and that its geographic range is that described and considered in the final listing rule for the coastal California gnatcatcher (58 FR 16742). Therefore, the coastal California gnatcatcher shall remain classified as a threatened species for reasons that are stated in the final rule to list the species (58 FR 16742).

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Carlsbad Field Office (see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Authors

The primary authors of this notice are Loren R. Hays of the Carlsbad Field Office (see **ADDRESSES** section), and Karla J. Kramer of the U.S. Fish and Wildlife Service, Portland Regional Office, 911 Northeast 11th Ave., Portland, Oregon 97232–4181 (telephone 503/231–6131).

Dated: March 22, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

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Proposed Rules

Federal Register
Vol. 60, No. 58
Monday, March 27, 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.

POSTAL SERVICE

5 CFR Chapter LX

RIN 3209–AA04

Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The United States Postal Service, with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations applicable to employees of the Postal Service to supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The proposed rule, which addresses ethical issues unique to the Postal Service, would prohibit certain outside activities and would require prior approval for employees to engage in other specified outside employment or activities.

DATES: Comments must be received on or before May 26, 1995.

ADDRESSES: Send comments to Chief Counsel, Ethics and Information Law, United States Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260–1110. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6427, at the above address.

FOR FURTHER INFORMATION CONTACT: Mitchell J. Benowitz, Ethics and Information Law, Postal Service, (202) 268–2967.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published new Standards of Ethical Conduct for Employees of the Executive Branch (Standards), now codified at 5 CFR part 2635. See 57 FR 35006–35067, as corrected at 57 FR 48557 and 52583, with additional grace-period extensions at 59 FR 4779–4780 and 60 FR 6390–6391. The Standards, which became effective on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

Under 5 CFR 2635.105, agencies may issue, with the concurrence of OGE, agency-specific regulations supplementing 5 CFR part 2635 as necessary to fulfill the purposes of that part in light of the agency's particular programs and operations. The Postal Service, with OGE's concurrence, has determined that the following proposed supplemental regulations, to appear in new 5 CFR chapter LX, consisting of part 7001, are necessary to the successful implementation of its ethics program.

The OGE regulations in 5 CFR part 2635 superseded many provisions of the Code of Ethical Conduct for Postal Employees (Code), 39 CFR part 447, including many of its restrictions on outside employment at 39 CFR 447.23 that do not involve compensated outside employment relationships. Certain other provisions of the Code that prohibited the holding of specified financial interests, 39 CFR 447.22(b)(1)–(7), and those provisions of 39 CFR 447.23 that involve compensated outside employment relationships, remained temporarily in effect pursuant to the note following 5 CFR 2635.403(a), as extended at 59 FR 4779–4780 and 60 FR 6390–6391.

The supplemental regulations will include restrictions on outside employment similar to many of those that were or continue to be in effect under 39 CFR 447.23. Upon further consideration of the prohibited financial interest provisions of 39 CFR 447.22(b)(1)–(7) in light of the uniform regulations concerning conflicting interests codified in 5 CFR 2635.401–2635.403, and other provisions of part 2635, the Postal Service has concluded that these financial interest prohibitions should not be retained. These provisions will be repealed in a separate document amending 39 CFR part 447 to remove outdated provisions, which will be published concurrently with the final rule adopting supplemental regulations.

II. Analysis of the Regulations

Section 7001.101 General

Section 7001.101 explains that the regulations contained in the proposed rule apply to all employees of the Postal Service and are supplemental to the uniform executive branch standards. Postal Service employees also are subject to the Standards at 5 CFR part 2635, the executive branch financial disclosure regulations at 5 CFR part 2634, and additional rules of conduct published in Postal Service regulations and manuals.

Section 7001.102 Restrictions on Outside Employment and Business Activities

Under 5 CFR 2635.802(a), agencies are authorized to issue supplemental regulations prohibiting employees from engaging in outside employment or activities that conflict with their official duties. Under 5 CFR 2635.803, agencies are authorized to issue supplemental regulations requiring employees to obtain prior approval before they engage in outside employment or other outside activities.

(a) *Prohibited outside employment and business activities.*

Under 39 CFR 447.23(a)(1), the Postal Service previously has prohibited its employees from manufacturing or representing a manufacturer of any product produced for exclusive use by the Postal Service or required for use by its customers. Proposed § 7001.102(a)(1)(i) would refine and continue this prohibition, adding an express reference to working for manufacturers of postal employee uniforms. The involvement of Postal Service employees in such activities could cause members of the public to question the impartiality and objectivity with which Postal Service programs are administered, because it could create the appearance that the employees, or the persons they represent or with whom they otherwise are affiliated, are in a position to benefit from knowledge or influence gained by the employees through their official positions.

Under 39 CFR 447.23(a)(3), the Postal Service previously has prohibited employees from engaging in employment that involves the delivery of mail to the postal facility in which the employee works, or to a facility within the delivery area of the post office in which the employee works, if such employment required the employee to conduct business with other employees performing the same type of duties. In proposed § 7001.102(a)(1)(ii), the rule would be revised to prohibit any employment

involving the delivery of mail for a postal contractor to the specified facilities, without regard to the nature of the employee's duties. The revision is intended to simplify the rule. Although the revision would create a somewhat broader prohibition, the Postal Service has concluded that the involvement of employees in the delivery of mail at or near their official workplace might lead reasonable persons to be concerned that the employees' outside employers are receiving preferential treatment from the Postal Service.

Under 39 CFR 447.23(a)(4), the Postal Service previously has prohibited employees from acting as ''consultants'' for current or potential Postal Service contractors. Such activity could lead members of the public to be concerned that the employees are using knowledge or influence gained through their official positions to benefit their outside employers. Proposed § 7001.102(a)(1)(iii) would provide a similar prohibition, but because the term ''consultants'' did not clearly define the activity subject to the prohibition, the new section would apply to ''consultation, advice, or any subcontracting service.'' In addition, proposed § 7001.102(a)(1)(iii) would apply to such services only when rendered ''with respect to the operations, programs, or procedures of the Postal Service.'' This limitation has been included to make clear that an employee would not be prohibited from consulting with a business that happens to hold a Postal Service contract when the employee's consulting work is not related to that contract and does not have any other postal connection. Under such circumstances the employee would not be expected to gain any personal benefit, or to provide any benefit for the outside business, from knowledge or influence arising from his or her official position. As explained below, another proposed provision, § 7001.102(b)(1), may require the employee to obtain prior approval before engaging in any employment, including consulting work, with a business that depends heavily on postal contracts.

Under 39 CFR 447.23(g), the Postal Service previously has prohibited employees from engaging in employment with a private business that delivers mailable matter. Proposed § 7001.102(a)(1)(iv) would continue the prohibition, and also would specify that working for a commercial mail receiving agency—an agency registered under Domestic Mail Manual D042.2.5 to receive mail from the Postal Service for delivery to others—would be included in this prohibition. Unlike most Federal agencies, the Postal Service must compete with certain private businesses. The new section would prohibit employees from working for such businesses because the outside employment might lead members of the public to question the employees' loyalty to the Postal Service, thereby undermining public confidence in the integrity of postal operations. This type of concern is not presented by postal employees having outside employment delivering daily newspapers, which is not prohibited.

Under 39 CFR 447.23(a)(5), the Postal Service previously has prohibited employees from engaging in any sales activity while on duty, in uniform, or in the office where the employee is stationed. Proposed § 7001.102(a)(2) would continue this prohibition, but would extend it to cover sales activities at any postal facility. The prohibition is intended to prevent employees from using influence derived from their official positions as an aid to sales activities, and experience has shown that employees may exert such influence at postal facilities other than their own. Under 5 CFR 2635.702, employees must not use public office for their own private gain or for the benefit of others such as any business with which they are affiliated. The Postal Service considers that a more explicit, supplemental rule is needed to deal with sales activities in the workplace or in uniform, whether or not the employee who would engage in the sales activity is on duty.

(b) *Prior approval for outside employment and business activities.* Under 39 CFR 447.23(a)(2), the Postal Service previously has prohibited employees from engaging in employment with persons with whom they have dealings in their official capacities. Proposed § 7001.102(b)(1)(i) would instead require employees to obtain approval before engaging in such employment or business activities. Although there are situations in which outside activities involving such persons would raise issues under 5 CFR part 2635, the duties of many Postal Service employees, such as clerks and letter carriers, might bring them into limited contact with a variety of outside businesses, including large, diversified corporations. Prohibiting such employees from being employed in any phase of a business, merely because the business's mail touches their hands, would be unduly restrictive. Therefore, the Postal Service considers a prior approval requirement more appropriate than a prohibition for this type of outside employment and, under 5 CFR 2635.803, has proposed the prior approval requirement at § 7001.102(b)(1)(i). The review required by the approval process can be expected to identify those employment relationships that would present ethical conduct concerns under 5 CFR part 2635.

Under 39 CFR 447.23(a)(6), the Postal Service previously has prohibited employees from engaging in outside employment with (1) persons whose business interests are substantially dependent upon, or may be significantly affected by, postal rates, fees, or classifications; and (2) persons whose interests are substantially dependent on providing goods or services to, or for use in connection with, the Postal Service. Proposed § 7001.102(b)(1)(ii) would require employees to obtain prior approval before engaging in such employment or business activities. Definitions of the outside businesses to which the prior approval requirement would apply are provided in § 7001.102(c)(2) and (c)(3). Whether such outside employment or business activities should be approved will usually depend upon the relationship between the particular postal employee's official duties and the operations or interests of the outside business. Therefore, the Postal Service considers that a prior approval requirement is the appropriate mechanism to bring to light and address outside relationships that are likely to raise ethical conduct issues under 5 CFR part 2635.

Proposed § 7001.102(b)(2) would set forth the procedure by which employees may request approval to engage in outside employment or business activities for which prior approval is required. The standard for approval would be set forth in proposed § 7001.102(b)(3). Under this standard, approval could be granted only when it is determined that the outside employment or business activity will not involve conduct prohibited by law or Federal regulation. Because requests for prior approval might involve situations where the employee's conduct could violate the principle that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the standards set forth in 5 CFR part 2635, the approval standard includes a specific reference to 5 CFR 2635.101(b)(14).

Proposed § 7001.102(c)(1) would provide a definition of ''outside employment or business activity.'' The definition would clarify that the regulations cover those who would engage in business as a principal—as proprietor, general partner, director, or holder of a franchise—as well as to

those who would serve a business as employee, contractor, or the like. Under the proposed definition, an employee would not, simply by holding shares in a publicly held corporation, be engaged in employment or business activity with or on behalf of that corporation.

Section 7001.103 Statutory Prohibition Against Interests in Contracts To Carry Mail and Acting as Agent for Contractors

Proposed § 7001.103 would provide notice to Postal Service employees that certain interests in, and conduct in connection with, mail transportation contracts are prohibited by a criminal statute, 18 U.S.C. 440. The section is for purposes of notification only. Neither the Postal Service nor OGE has issued regulations interpreting this statutory prohibition.

III. Matters of Regulatory Procedure

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding rulemaking (5 U.S.C. 553(b), (c)), the Postal Service invites comments on this proposed rule.

List of Subjects in 5 CFR Part 7001

Conflict of interests, Ethical standards, Executive branch standards of conduct, Government employees.

Dated: March 8, 1995.

Mary S. Elcano,

General Counsel and Vice President, United States Postal Service.

Approved: March 15, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the United States Postal Service, with the concurrence of the Office of Government Ethics, is proposing to amend title 5 of the Code of Federal Regulations by adding a new chapter LX, consisting of part 7001, as follows:

Chapter LX—United States Postal Service

PART 7001 — SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE UNITED STATES POSTAL SERVICE

Sec.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 39 U.S.C. 401; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.802, and 2635.803.

§ 7001.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635, as applied to employees of the United States Postal Service (Postal Service). Postal Service employees are subject, in addition to the standards in 5 CFR part 2635 and this part, to the executive branch financial disclosure regulations contained in 5 CFR part 2634, and to any rules of conduct issued separately by the Postal Service, including but not limited to, regulations contained in 39 CFR part 447, the Postal Service Employee and Labor Relations Manual, and the Postal Service Procurement Manual.

§ 7001.102 Restrictions on outside employment and business activities.

(a) *Prohibited outside employment and business activities.* No Postal Service employee shall:

(1) Engage in outside employment or business activities with or for a person, including oneself, engaged in:

(i) The manufacture of any uniform or other product required by the Postal Service for use by its employees or customers;

(ii) The transportation of mail under Postal Service contract to or from the postal facility at which the employee works, or to or from a postal facility within the delivery area of a post office in which the employee works;

(iii) Providing consultation, advice, or any subcontracting service, with respect to the operations, programs, or procedures of the Postal Service, to any person who has a contract with the Postal Service or who the employee has reason to believe will compete for such a contract; or

(iv) The operation of a commercial mail receiving agency registered with the Postal Service, or the delivery outside the mails of any type of mailable matter, except daily newspapers; or

(2) Engage in any sales activity, including the solicitation of business or the receipt of orders, for oneself or any other person, while on duty or in uniform, or at any postal facility.

(b) *Prior approval for outside employment and business activities*—(1) *Requirement for approval.* A Postal Service employee shall obtain approval, in accordance with paragraph (b)(2) of this section, prior to:

(i) Engaging in outside employment or business activities with or for any person with whom the employee has official dealings on behalf of the Postal Service; or

(ii) Engaging in outside employment or business activities, with or for a person, including oneself, whose interests are:

(A) Substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications; or

(B) Substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service.

(2) *Submission and contents of request for approval.* An employee who wishes to engage in outside employment or business activities for which prior approval is required by paragraph (b)(1) of this section shall submit a written request for approval to the Postal Service Ethical Conduct Officer or appropriate delegate. The request shall be accompanied by a statement from the employee's supervisor briefly summarizing the employee's duties and stating any workplace concerns raised by the employee's request for approval. The request for approval shall include:

(i) A brief description of the employee's official duties;

(ii) The name of the outside employer, or a statement that the employee will be engaging in employment or business activities on his or her own behalf;

(iii) The type of employment or business activities in which the outside employer, if any, is engaged;

(iv) The type of services to be performed by the employee in connection with the outside employment or business activities;

(v) A description of the employee's official dealings, if any, with the outside employer on behalf of the Postal Service; and

(vi) Any additional information requested by the Ethical Conduct Officer or delegate that is needed to determine whether approval should be granted.

(3) *Standard for approval.* The approval required by paragraph (b)(1) of this section shall be granted only upon a determination that the outside employment or business activity will not involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635, which includes, among other provisions, the principle stated at 5 CFR 2635.101(b)(14) that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in part 2635.

(c) *Definitions.* For purposes of this section:

(1) *Outside employment or business activity* means any form of employment or business, whether or not for compensation. It includes, but is not limited to, the provision of personal services as officer, employee, agent, attorney, consultant, contractor, trustee, teacher, or speaker. It also includes, but is not limited to, engagement as principal, proprietor, general partner, holder of a franchise, operator, manager, or director. It does not include equitable ownership through the holding of publicly traded shares of a corporation.

(2) *A person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications* includes a person:

(i) Primarily engaged in the business of publishing or distributing a publication mailed at second-class rates of postage;

(ii) Primarily engaged in the business of sending advertising, promotional, or other material on behalf of other persons, through the mails;

(iii) Engaged in a business that depends substantially upon the mails for the solicitation or receipt of orders for, or the delivery of, goods or services; or

(iv) Who is, or within the past 4 years has been, a party to a proceeding before the Postal Rate Commission.

(3) *A person having interests substantially dependent upon providing goods or services to or for use in connection with the Postal Service* includes a person:

(i) Providing goods or services under contract with the Postal Service that can be expected to provide revenue exceeding $100,000 over the term of the contract and that provides five percent or more of the person's gross income for the person's current fiscal year; or

(ii) Substantially engaged in the business of preparing items for others for mailing through the Postal Service.

§ 7001.103 Statutory prohibition against interests in contracts to carry mail and acting as agent for contractors.

Section 440 of title 18, United States Code, makes it unlawful for any Postal Service employee to become interested in any contract for carrying the mail, or to act as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–7469 Filed 3–24–95; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

[INS No. 1677–94]

RIN 1115–AD84

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

RIN 1515–AB64

Customs/INS Field Organizations; Revocations and Designation of International Airport Status for Customs Services and Ports of Entry for Aliens Arriving by Aircraft

AGENCIES: Immigration and Naturalization Service, Justice; Customs Service, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs and Immigration and Naturalization Service (the Service) Regulations pertaining to their respective field organizations. Customs proposes to revoke the international airport designations for the Ranier International Seaplane Base located in Ranier, Minnesota, and the Eagle Pass Municipal Airport located in Eagle Pass, Texas. The Service proposes to remove Ranier, MN, and Eagle Pass, TX, from the port of entry lists for aliens arriving by vessel, land transportation, or by aircraft. This proposal is based on evidence that the facilities at these locations have deteriorated and/or the amount of business clearing through the airports does not justify continued maintenance of inspection equipment and personnel. The document also proposes to designate Maverick County Airport located in Maverick County, Texas, as a new international airport for Customs purposes and as a new port of entry for purposes of the Service. These changes will assist both agencies in their continuing efforts to achieve more efficient use of their personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before May 26, 1995.

ADDRESSES: Please submit written comments in triplicate to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: At Customs Service—Darlene Langum Wilder, Office of Passenger Enforcement and Facilitation, Office of Inspection and Control, (202) 927–0530; at Immigration and Naturalization Service—Andrea Sickler, Assistant Chief Inspector, Office of Inspections, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, (202) 616–7993.

SUPPLEMENTARY INFORMATION:

Background

To achieve more efficient use of their personnel, facilities, and resources, and to provide better services to carriers, importers, and the public in general, U.S. Customs and the Immigration and Naturalization Service (the Service) propose to amend their respective field organization regulations.

Customs proposes to amend § 122.13 of the Customs Regulations (19 CFR 122.13), which lists international airports, to reflect the proposed revocations of the international airport designations for (1) Ranier International Seaplane Base located in Ranier, Minnesota, in the Customs District of Duluth, Minnesota, North Central Region, and (2) Eagle Pass Municipal Airport located in Eagle Pass, Texas, in the Customs District of Laredo, Texas, Southwest Region. Customs further proposes to amend § 122.13 to reflect the proposed designation of Maverick County Airport located in Maverick County, Texas, in the Customs District of Laredo, Texas, Southwest Region, as an international airport. Revocation of the international airport designations will not result in any significant reduction in Customs services in the area, as future Minnesota transactions will be handled at either Sky Harbor Airport or Crane Lake Seaplane Base, both landing rights airports, and future Texas transactions will be handled at Maverick County Airport, also a landing rights airport, which, it is proposed, will be designated as an international airport.

The Service proposes to amend 8 CFR 100.4(c) (2) and (3), which pertain to ports of entry for aliens arriving by vessel, land transportation, or by aircraft, to reflect the removal of the same two ports of entry: (1) Ranier International Seaplane Base located in Ranier, Minnesota, in the Service District of St. Paul, Minnesota, and (2) Eagle Pass Municipal Airport located in Eagle Pass, Texas, in the Service District

of San Antonio, Texas. The Service further proposes to amend its regulations by adding Maverick County Airport to the list of ports of entry authorized for the processing of aliens arriving by vessel, land transportation, or by aircraft. Withdrawal of the port of entry designations will not result in any significant reduction in Immigration services in the area, as future Minnesota transactions will be handled at either Sky Harbor Airport or Crane Lake Seaplane Base, both landing rights airports, and future Texas transactions will be handled at Maverick County Airport, also a landing rights airport, which, it is proposed, will be designated as a port of entry.

Customs Position

The criteria used by Customs in determining whether to withdraw the designation of an international airport from a facility previously designated as such are found at § 122.11(b) of the Customs Regulations, which provides that the designation can be withdrawn for any of the following reasons: (1) The amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel; (2) proper facilities are not provided or maintained by the airport; (3) the rules and regulations of the Federal Government are not followed; or, (4) some other location would be more useful. In the case of Ranier International Seaplane Base, the conditions specified at § 122.11(b)(1) and (2) are present. In the case of Eagle Pass Municipal Airport, the conditions specified at § 122.11(b)(2) and (4) are present.

Regarding the proposed revocation of the international airport designation for Ranier International Seaplane Base, this action originated as a request from the owner of the seaplane base: The Camping and Education Foundation/ Camp Kooch-i-ching. The President/ Director of the Foundation requested that Ranier's designation as an international airport port of entry be changed so that the facility would no longer be used as a landing base for seaplanes. With regard to the above criteria, the President/Director stated that the facility is used only as a landbase for a boys' camp. The district director at Duluth has verified that Ranier's designation as an international airport should be withdrawn because (1) the services offered to aircraft operators has declined, (2) the number of seaplanes requesting Customs clearance is minimal—only 67 seaplanes arrived in 1993, and (3) the facilities have deteriorated and can no longer safely accommodate aircraft. The Regional Commissioner for the North Central Region agrees with the request and the district's findings.

Regarding the proposed revocation of the international airport designation for the Eagle Pass Municipal Airport and designation of Maverick County Airport as the replacement international airport, this action originated as a request from the Honorable Enriqueta D. Carpenter, Maverick County Judge, who advised that the existing airport is extremely limited and will be closed when the new airport facility is completed in the next year. Customs believes that the Maverick facility should be given the same status as the Eagle Pass facility once the latter is closed. The workload will remain the same and staffing should not be affected.

An ''international airport'' is defined at § 122.1(e) of the Customs Regulations (19 CFR 122.1(e)), in part, as any airport designated by (1) the Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft, (2) the Attorney General as a port of entry for aliens, and, (3) the Secretary of Health and Human Services as a place for quarantine inspection. (It is noted that the term ''port of entry'' in this section applies only for arrival purposes in the contexts specified and, thus, does not have the same meaning or legal effect as the broader term ''port of entry'' used for Customs organizational purposes in part 101.) The new international airport will be within an already established port of entry—Eagle Pass, see, T.D. 91–93 (56 FR 57487).

Description of International Airport Limits

The geographical limits of the proposed international airport called Maverick County Airport would be as follows:

In Maverick County, Texas, approximately 12 miles north of the corporate limits of the city of Eagle Pass and east of U.S. Highway 277 is a site commonly known as the ''Radar Base'' Airfield that encompasses a total of 640 acres; this site is designated by a sign marked ''Eagle Pass Airport,'' which is located at the intersection of U.S. Highway 277 and an undesignated (no name or number) paved road.

Immigration and Naturalization Services's Position

The criteria used by the Service in determining whether to remove a facility previously designated as a port of entry for the processing of aliens arriving by vessel, land transportation, or by aircraft are found at 8 CFR 100.4(c)(2) and (3), which provide, in part, that the designation of ports of entry may be withdrawn whenever, in the judgment of the Commissioner, such action is warranted.

In the case of Ranier International Seaplane Base and Eagle Pass Municipal Airport, the Commissioner has reviewed information presented by parties requesting termination of their port of entry designations. Ranier International Seaplane Base is owned by the Camping and Education Foundation/Camp Kooch-i-ching. The Foundation's President/Director stated that the base is used only as a landbase to transport supplies and people to a boys' camp and requested that the facility no longer be used as a landing base for seaplanes due to concern for the safety of camp visitors and personnel.

Eagle Pass Municipal Airport services and is owned by Maverick County, Texas. The County Judge of Maverick requested that Eagle Pass Municipal Airport's designation as a port of entry be revoked due to facility constraints and the fact that it will be closed upon completion of the new Maverick County Airport. The Commissioner believes that the withdrawal of the port of entry designations for both Ranier International Seaplane Base and Eagle Pass Municipal Airport is warranted, and that the designation of Maverick County Airport as a Class A port of entry is also warranted.

Concurrence of Other Federal Inspection Service Agencies

Other agencies having a presence at the Ranier and Eagle Pass facilities (the Department of Health and Human Services and the Animal and Plant Health Inspection Service of the Department of Agriculture) have been contacted regarding these matters and support the proposed actions.

Accordingly, Customs believes that there is sufficient justification for revoking the international airport designations from Ranier International Seaplane Base and Eagle Pass Municipal Airport, and for designating Maverick County Airport as an international airport; the Service believes it also has sufficient justification for amending its regulations at 8 CFR part 100 to reflect current airport listings serving as designated ports of entry.

Proposed Amendments

If the proposed revocations of international airport designations and designation of international airport are adopted, the Customs list of international airports at § 122.13 will be amended by removing Ranier International Seaplane Base and Eagle Pass Municipal Airport and adding Maverick County Airport, and the

Service regulations at 8 CFR 100.4(c) (2) and (3) will be amended by removing Ranier, MN, and Eagle Pass, TX, and adding Maverick County Airport.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. (Customs will serve as the clearing house for comments received and coordinate a response with the Service.) Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 4th floor, 1099 14th St., NW, Washington, DC.

Authority

This change is proposed under the authority of 5 U.S.C. 301, 8 U.S.C. 1103, and 19 U.S.C. 2, 66, and 1624.

Inapplicability of the Regulatory Flexibility Act and Executive Orders 12866, 12612, and 12606

Customs and the Service routinely establish, expand, and consolidate ports of entry throughout the United States to accommodate the volume of Customs- and Service-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

In accordance with the provisions of E.O. 12612, it is certified that the regulations proposed herein have been assessed in light of the principles, criteria, and requirements specified in that E.O. and that they 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, the preparation of a Federalism Assessment is not warranted.

In accordance with the provisions of E.O. 12606, the Commissioners of the Customs and the Immigration and Naturalization Services certify that they have assessed these proposed amendments in light of the criteria set forth in that E.O., and determined that the regulations proposed herein will not have a significant impact on family formation, maintenance, and general well-being.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Office of Regulations and Rulings, U.S. Customs Service; however, personnel from other offices and agencies participated in its development.

List of Subjects

8 CFR Part 100

Administrative practice and procedure, Organizations and functions (Government agencies).

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Air transportation, Baggage, Customs duties and inspection, Drug traffic control, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated above, it is proposed to amend Part 100 of Chapter I of title 8 of the Code of Federal Regulations and Part 122 of Chapter I of title 19 of the Code of Federal Regulations as set forth below:

TITLE 8—ALIENS AND NATIONALITY

PART 100—STATEMENT OF ORGANIZATION

1. The general authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

2. In § 100.4, it is proposed to amend paragraph (c)(2) by:

a. Removing ''Ranier, MN'' from the Class A listing under District No. 10—St. Paul, Minnesota;

b. Removing ''Eagle Pass, TX'' from the Class A listing under District No. 14—San Antonio, Texas; and

c. Adding, in proper alphabetical sequence, ''Maverick, TX'' to the Class A listing under District No. 14—San Antonio, Texas.

3. In § 100.4, it is proposed to amend paragraph (c)(3) by:

a. Removing ''Ranier, MN, International Seaplane Base'' from the listing under District No. 10—St. Paul, Minnesota;

b. Removing ''Eagle Pass, TX, Eagle Pass Airport'' from the listing under District No.14—San Antonio, Texas; and

c. Adding, in proper alphabetical sequence, ''Maverick, TX, Maverick County Airport'' to the Class A listing under District No.14—San Antonio, Texas.

TITLE 19—CUSTOMS DUTIES

PART 122—AIR COMMERCE REGULATIONS

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

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644,; 49 U.S.C.App. 1509.

2. In § 122.13, it is proposed to amend the list of international airports by removing ''Eagle Pass, Tex.—Eagle Pass Municipal Airport'' and ''Ranier, Minn.—Ranier International Seaplane Base'' and adding, in appropriate alphabetical order, ''Maverick, Tex.—Maverick County Airport''.

George J. Weise,

Commissioner of Customs.

Approved: February 23, 1995.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

Dated: January 30, 1995.

Doris Meissner,

Commissioner of Immigration and Naturalization Service.

[FR Doc. 95–7502 Filed 3–24–95; 8:45am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 4, 10, 11, and 18

Office of the Secretary

31 CFR Part 1

[Docket No. 95–06]

RIN 1557–AA67

Description of Office, Availability and Release of Information, Contracting Outreach Program; Municipal Securities Dealers; Securities Exchange Act Disclosure Rules; Disclosure of Financial and Other Information by National Banks; Disclosure of Records

AGENCY: Office of the Comptroller of the Currency and Office of the Secretary, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to revise its rules that describe the agency

and its rules that govern the availability and release of information. By clarifying these rules, this proposal will help the banking industry and the public better interact with the OCC. This proposal also makes technical and clarifying amendments to the OCC's rules governing municipal securities dealers, disclosures under the Securities Exchange Act, and the disclosure of financial and other information by national banks, and, under delegated authority, to the Department of the Treasury's rules regarding disclosure of records. This proposal is another component of the OCC's Regulation Review Program, which is intended to update and streamline OCC regulations and to reduce unnecessary regulatory costs and other burdens.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, Attention: Docket No. 95–06. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Andrew T. Gutierrez, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090 (except with respect to proposed 12 CFR part 4, subpart C); Lester N. Scall, Senior Attorney, Administrative and Internal Law Division, (202) 874–4460, or Daniel L. Cooke, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090 (with respect to proposed 12 CFR part 4, subpart C).

SUPPLEMENTARY INFORMATION:

Background

The OCC proposes to amend 12 CFR parts 4, 10, 11, and 18, and, under delegated authority, 31 CFR part 1 as a component of its Regulation Review Program. One goal of the Regulation Review Program is to review all of the OCC's rules and to eliminate provisions that do not contribute significantly to maintaining the safety and soundness of national banks or to accomplishing the OCC's other statutory responsibilities. Another goal of the Regulation Review Program is to improve clarity and to better communicate the standards that the rules intend to convey. In the case of the current proposal, improved clarity will promote better and more efficient interaction between the OCC and the banking industry and the public at large.

Part 4

Subpart A—Description of Office

The OCC proposes to revise the description of the OCC contained in current § 4.1a and relocate that information to a new subpart A. Specifically, the proposal provides separate descriptions of the functions and responsibilities of the OCC generally in § 4.2, the Comptroller of the Currency in § 4.3, the Washington office in § 4.4, and the district and field offices in § 4.5. The proposal eliminates from current § 4.1a all detailed job descriptions of OCC positions subordinate to the Comptroller of the Currency. These changes update and clarify the regulation, and eliminate unnecessary provisions.

The OCC will continue to provide the public with current and accurate descriptions of the functions of its major departments and divisions in the OCC's annual report to Congress. The annual report, required under 12 U.S.C. 14, consists of the four issues of the *Quarterly Journal* published each year. The first issue of each year contains the Comptroller's Report of Operations, which describes in detail the functions of the major departments and divisions of the OCC. The OCC believes that the *Quarterly Journal* is a better source of current and detailed descriptions of specific departments, divisions, and officials. Additionally, persons may contact the OCC's Communications Division for further information concerning the OCC's organizational structure.

The OCC also proposes to eliminate the information contained in current § 4.11, which describes the frequency of national bank examinations and provides a partial list of required national bank reports. These changes eliminate information that merely repeats statutory provisions, or is otherwise unnecessary. For a current description of the frequency of bank examinations, persons may refer to 12 U.S.C. 1820(d), as amended by section 306 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160. For a current listing of required national bank reports, persons may contact the OCC's Communications Division.

Subpart B—Availability of Information Under the FOIA

In General

The OCC proposes to revise its rules regarding the availability of information under the Freedom of Information Act (FOIA) (5 U.S.C. 552), currently found in §§ 4.13–4.17a, and 4.18(d), and relocate the rules to a new subpart B, consisting of §§ 4.11–4.17. This subpart updates, clarifies, reorganizes, and streamlines the rules to better communicate to the public the standards, policies, and procedures that the OCC applies in administering the FOIA. The OCC does not intend this subpart B to materially affect current OCC standards, policies, or procedures. Each section in the new subpart B is described below.

Section 4.11—Purpose and Scope

Proposed § 4.11 sets forth the purpose of subpart B—namely, to describe the standards, policies, and procedures that the OCC applies in administering the FOIA. This section also sets forth the scope of subpart B by briefly describing each section in the subpart. This section explicitly does not apply to a request for records pursuant to the Privacy Act (5 U.S.C. 552a). A person requesting records from the OCC pursuant to the Privacy Act should refer to 31 CFR part 1, subpart C, and appendix J of that subpart.

Section 4.12—Information Available Under the FOIA

Proposed § 4.12 delineates the scope of information that the FOIA requires the OCC to disclose to the public. This section clarifies, reorganizes, and streamlines the OCC's rules, but does not materially affect current OCC standards, policies, or procedures. Paragraph (a), derived from current § 4.16(a), declares that, in accordance with the FOIA, all information in the OCC's possession is available to the public, except the exempt records described in paragraph (b).

Paragraph (b), derived from current § 4.16(b), describes the nine types of records that the FOIA exempts from disclosure (see 5 U.S.C. 552(b)). However, paragraph (b)(8) differs somewhat from its current counterpart, § 4.16(b)(8). Current § 4.16(b)(8), which describes the FOIA exemption concerning bank supervisory records, contains language not found in the statute. The additional language in the current regulation may confuse rather than clarify the FOIA exemption. Thus, proposed paragraph (b)(8) eliminates, as unnecessary, this language. This change is clarifying in nature, and merely amends the OCC's rule to better reflect the statute. This change does not materially affect current OCC standards, policies, or procedures.

Paragraph (c), added in accordance with 5 U.S.C. 552(c)(1), states that the OCC may deny the existence of exempt records in certain circumstances where

disclosure of the existence of the records may interfere with criminal law enforcement proceedings. This addition clarifies the OCC's rules by properly reflecting an applicable FOIA provision.

Paragraph (d), derived from current § 4.16(c), states that on a case-by-case basis, even if a record is exempt under paragraph (b), the OCC may elect not to apply the exemption to the requested record. The OCC's discretionary disclosure of an exempt record under this paragraph does not affect the applicability of an exemption to any other record.

Paragraph (e), derived from current § 4.16(d), explains that the OCC provides non-exempt portions of a requested record to the extent that those portions are reasonably segregable from exempt portions.

Section 4.13—Publication in the Federal Register

Proposed § 4.13 sets forth the first of three methods by which the OCC provides information to the public under the FOIA. This section clarifies the OCC's rules, but does not materially affect current OCC standards, policies, or procedures.

This section, derived from current § 4.14(a), lists the types of information that the OCC publishes in the **Federal Register** for the guidance of the public. Generally, the OCC publishes in the **Federal Register** proposed and final rules, and certain notices and policy statements of concern to the general public (such as notices of certain Federal preemption interpretations, in accordance with 12 U.S.C. 43).

Section 4.14—Public Inspection and Copying

Proposed § 4.14 sets forth the second method by which the OCC provides information to the public under the FOIA. This section updates, clarifies, reorganizes, and streamlines the rules, but does not materially affect current OCC standards, policies, or procedures.

Information covered under this section is readily available to the public for inspection and copying. Any person seeking this information may contact the Disclosure Officer in the OCC's Communications Division at the address specified in paragraph (c) to schedule an appropriate time to inspect and copy documents.

Paragraph (a) lists the seven types of information that this section covers. These types of information are: (1) Final orders, agreements, or other enforceable documents made in the adjudication of a case (paragraph (a)(1), derived from current § 4.15(a)(1)); (2) final opinions made in the adjudication of a case (paragraph (a)(2), derived from current § 4.15(a)(2)); (3) statements of general policy or interpretations of general applicability not published in the **Federal Register** (paragraph (a)(3), derived from current § 4.15(a)(3)); (4) administrative staff manuals or instructions to staff that may affect a member of the public (paragraph (a)(4), derived from current § 4.15(a)(4)); (5) a current index identifying each document described in paragraphs (a)(1)–(4) that the OCC issued, adopted, or promulgated after July 4, 1967 (a date set under 5 U.S.C. 552(a)(2)) (paragraph (5), derived from current § 4.15(b)); (6) a list of OCC publications available (paragraph (a)(6), derived from current § 4.14(b)); and (7) a list of OCC forms available, and specific forms and instructions (paragraph (a)(7), derived from current § 4.13).

Paragraph (a) eliminates several items unnecessarily listed in current § 4.15(a). Current § 4.15(a)(6)–(9) involves securities disclosure documents already addressed in other regulations, and contains outdated references to regulations; and current § 4.15(a)(10) involves requests for staff no-objection positions and staff responses. Currently, requesters may obtain these documents upon specific request. While the new subpart B does not specifically mention these documents, they, like all OCC records not exempt from the FOIA, will remain available to the public.

Paragraph (a) also eliminates current § 4.15(a)(11), which involves transcripts of public hearings. The OCC currently contracts with a commercial service to produce these documents and provide them upon request. The OCC refers persons seeking a transcript of a public hearing to this contractor.

Paragraph (b), derived from current § 4.15(c) explains that the OCC, to the extent necessary to prevent an invasion of personal privacy, may redact identifying details from any document described in paragraph (a) before making the document available for public inspection and copying. The OCC provides a justification for any redaction if the basis of that redaction is not evident.

Section 4.15—Specific Requests for Records

Proposed § 4.15 sets forth the third method by which the OCC provides information to the public under the FOIA. This section updates, clarifies, reorganizes, and streamlines the rules, but does not materially affect current OCC standards, policies, or procedures.

Paragraph (a), derived from current § 4.16(a), provides that any OCC record not exempt from disclosure is available to any person upon specific request.

Paragraph (b), derived from current § 4.17 (b), (c), and (d)(1), identifies where a person must submit a request for records or an administrative appeal of a denial of a request for records. Paragraph (b)(1) directs a person to submit a request generally to the Disclosure Officer in the OCC's Communications Division. Paragraph (b)(2) lists a few exceptions to this general rule. Unlike the current regulation, paragraph (b)(2) does not include a specific provision relating to the public sections of Community Reinvestment Act (CRA) evaluations. Current § 4.17(b)(2)(ii) indicates that these public sections are available from the CRA Contact in the OCC's Department of Compliance Management. In the proposed regulation, these public sections are available from the Disclosure Officer under the general rule in paragraph (b)(1).

Paragraph (c), derived from current §§ 4.17 (d)(2), (d)(3), and (g), and 4.17a(b), describes the required contents of a request for records, indicates that the OCC's Director of Communications or that person's designee initially determines whether to grant or deny a request for records, and explains the procedures that the OCC follows in granting or denying a request for records.

Paragraph (d), derived from current §§ 4.17(e) and 4.17a(c), describes the procedures a requester must follow to appeal a denial of a request for records, indicates that the Comptroller or the Comptroller's designee determines whether to grant or deny an appeal, and explains the procedures that the OCC follows in granting or denying an appeal.

Paragraph (e)(1), added in accordance with 5 U.S.C. 552(a)(4)(B), provides that if the OCC denies an appeal, or fails to make an initial or appellate determination within the time limits set forth in paragraph (f), the requester may commence action to compel disclosure in an appropriate United States district court. This addition clarifies the OCC's current rules by including statutory language that provides the context of paragraph (e)(2). Paragraph (e)(2), derived from current § 4.17(f), identifies the OCC's Chief Counsel as the officer on whom a litigant under paragraph (e)(1) must serve process.

Paragraph (f), derived from current § 4.17a(d), sets forth the time limits that the OCC must follow in making initial and appellate determinations under this section. In general, the OCC determines whether to grant or deny a request for

records within ten business days after the date of receipt of the request, and determines whether to grant or deny an administrative appeal within 20 business days after the date of receipt of the appeal.

Paragraph (g), derived from current § 4.17a(a), explains how the OCC determines the date of receipt of a request or appeal for purposes of the time limits set forth in paragraph (f).

Section 4.16—Predisclosure Notice for Confidential Commercial Information

Proposed § 4.16, derived from current § 4.18(d), sets forth predisclosure notice procedures that the OCC follows, in accordance with Executive Order 12600 (3 CFR, 1987 Comp., p. 235), when the OCC receives a request under § 4.15 for disclosure of records that arguably are exempt from disclosure under exemption 4 of the FOIA (5 U.S.C. 552(b)(4); proposed § 4.12(b)(4)) as confidential commercial information. This section clarifies and reorganizes the rules, but does not materially affect current OCC standards, policies, or procedures.

Section 4.17—Fees for Services

Proposed § 4.17, derived from current § 4.17(h), describes the fees that the OCC assesses for the services it renders in providing information under the FOIA. This section clarifies, reorganizes, and streamlines the rules, but does not materially affect current OCC standards, policies, or procedures.

Subpart C—Release of Non-public OCC Information

In General

The OCC proposes to amend and relocate to a new subpart C, current §§ 4.18 and 4.19 to clarify the procedures that must be followed by persons who seek non-public OCC information and to clarify the restrictions on dissemination of non-public OCC information. Non-public OCC information, as that term is used in this proposal, is information, confidential or otherwise, that is not available to the public pursuant to the FOIA. FOIA specifically exempts from disclosure several categories of information including records contained in or related to examination, operating, or condition reports concerning financial institutions.

In recent years, requests for non-public OCC information, particularly requests arising from litigation, have increased substantially. These requests have caused the OCC concerns about burden and confidentiality. Persons requesting information have sought confidential OCC records, such as reports of examination and other OCC summary information, large portions of records and files about specific banks, and testimonial appearances or interviews of OCC employees or former employees. The OCC recognizes a public need in individual cases for certain information, but is concerned that a candid dialogue in the bank examination and supervision process be maintained. The OCC is aware that release of non-public OCC information may inhibit open consultation between banks and the OCC. The OCC, therefore, has attempted to balance its need to preserve appropriate confidentiality and the public interest in ensuring effective consultations between banks and the OCC, on the one hand, and the needs of parties requesting information from the OCC, on the other hand.

To this end, the proposal provides new detail in defining non-public OCC information, listing the information requesters must include in their requests for non-public OCC information, and identifying the standards the OCC uses to decide requests. The proposal also explains the OCC procedural response to service of subpoenas on the OCC and its employees and former employees, restricts the further dissemination of released information and testimony, and states the fee schedule for records search, copying, certification, and testimony.

The OCC, as other Federal agencies, has authority, pursuant to the 5 U.S.C. 301, the ''housekeeping'' statute, to prescribe procedures for the production of agency records, property, and testimony. This proposal is issued pursuant to 5 U.S.C. 301, which is intended to allow agencies to control the burdens associated with production of non-public information. See *Moore* v. *Armour Pharmaceutical Co.*, 927 F.2d 1194 (11th Cir. 1991). The proposal is also based on 5 U.S.C. 552 and recent judicial interpretation of the bank examination privilege. See *In Re: Subpoena Served Upon the Comptroller of the Currency, and the Secretary of the Board of Governors of the Federal Reserve System*, 967 F.2d 630, 634 (D.C. Cir. 1992); and *Schreiber* v. *Society for Savings Bancorp, Inc.*, 11 F.3d 217 (D.C. Cir. 1993) (describing the type of information that is privileged and subject to a balancing test). *In Re Subpoena* and *Schreiber* have clarified the responsibilities of Federal bank regulatory agencies in the discovery process. These cases and *Moore* have led the OCC to conclude that it should amend §§ 4.18 and 4.19.

Courts have upheld the privileged nature of certain types of information generated in the government's supervision of banks. Consistent with the *In Re Subpoena* and *Schreiber* decisions, this proposal provides for the OCC's case-by-case determination of privilege and provides an orderly mechanism for the OCC to assert or waive privilege. Also consistent with these decisions, the proposal allows the OCC to reconcile its need to preserve the confidential nature of its bank examination functions with its responsibility to provide access to information in appropriate situations. The proposal also is intended to provide an efficient mechanism for the OCC to release relevant non-privileged records.

The non-public OCC information covered by this proposal includes information about failed banks and operating banks. This is consistent with Congress's view that, even when regulatory information about a failed bank is used by the FDIC, the privileges available to the bank regulatory agencies are not intended to be waived. See H.R. Conf. Rep. No. 222, 101st Cong., 1st Sess. 440–41 (1989), reprinted in 1989 U.S.C.C.A.N. 86, 479–80 (explaining section 11(o) of the Federal Deposit Insurance Act (12 U.S.C. 1821(o)) as amended by section 909 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73, 103 Stat. 183, 477). See also The Housing and Community Development Act of 1992, Public Law 102–550, 1544, 106 Stat. 3672, 4069.

This proposal is not intended to affect the policies and procedures the OCC follows in providing information and assistance for criminal cases and investigations. It also does not change the OCC's policies for releasing non-public OCC information to other Federal agencies that require such information in support of their civil investigations and cases. The proposal is furthermore not intended to supersede information sharing agreements that the OCC has with other Federal agencies. However, the OCC anticipates that, under the proposal, government agencies will use the OCC's procedures as guidance when seeking non-public OCC information.

Section 4.31—Purpose and Scope

Proposed § 4.31 sets out the purposes and scope of this portion of part 4. As stated in paragraph (a), the proposal seeks to achieve several purposes. First, it is intended to provide an orderly mechanism for the OCC to process requests for non-public information. Second, it is intended to provide information to requesters while preserving the confidentiality of the

information. Third, it is intended to ensure that the released information is used in the public interest. Fourth, it is intended to provide a mechanism for the OCC to assert evidentiary privileges when necessary. Finally, it is intended to protect the interests of the OCC in fulfilling its mission, which includes fostering candid communication between banks and the OCC to ensure effective supervision.

Paragraph (b) describes the scope of subpart C by specifying the types of litigation to which subpart C applies and the type of information covered by the regulation.

Section 4.32—Definitions

Proposed § 4.32 adds new definitions for the following terms: ''compelling need,'' ''complete request,'' ''non-public OCC information,'' ''showing that the information has high relevance,'' and ''testimony.'' The new definitions should make the rule easier to interpret and apply.

In particular, the definition of ''non-public OCC information'' clarifies the precise scope of the rule by defining the type of information to which the rule applies. The OCC intends that the definition of ''non-public OCC information'' include records generated by the OCC as well as certain records not generated by the OCC. ''Non-public OCC information'' includes interviews with OCC employees as well as employee testimony.

Section 4.33—Requirements for a Request of Records or Testimony

Proposed § 4.33 specifies the information that requesters must provide to the OCC when seeking non-public OCC information. The OCC intends this new section to ensure that it will not unnecessarily compromise the essential confidentiality, and consequently the open information exchange of the examination and supervisory process. Paragraph (a) specifies what all requests must contain, the additional showing the requester must make if a response is sought in less than 60 days, and the additional submissions a requester must make in adversarial situations.

Paragraph (b) specifies the additional information that a requester must provide when requesting records.

Paragraph (c) specifies the additional information that a requester must provide when seeking testimony.

Section 4.34—Where to Submit a Request

Proposed § 4.34(a) specifies that requests for non-public OCC information, requests for authentication of a record, and notifications regarding the issuance of subpoenas or other compulsory process must be addressed to the OCC's Litigation Division in Washington, DC.

Paragraph (b) permits a person who is requesting public OCC information along with non-public OCC information to submit a combined request for both to the Litigation Division in Washington, DC. If a requester decides to submit a combined request under this section, the OCC will process the combined request under this subpart and not under subpart B (FOIA).

Section 4.35—Consideration of Requests

Proposed § 4.35 sets out the issues and factors that the OCC will consider in acting on requests. The OCC intends this new section to alert requesters to the reasons the OCC could use to deny a request and to assist requesters in determining whether and how to file a request. Paragraph (a) lists the bases for denial and states that the OCC will weigh the requirements prescribed in § 4.33. Paragraph (a) also provides that the OCC may require a requester to submit additional information, states that the OCC may independently seek information from other persons or sources, and prescribes the OCC's normal processing time.

Paragraph (b) specifies the additional considerations that apply to requests for testimony.

Paragraph (c) states that the OCC also may respond to certain requests by authorizing others in possession of the requested records to release the records.

Section 4.36—Parties With Access to OCC Information; Restriction on Dissemination

Proposed § 4.36 prohibits persons and entities from disseminating non-public OCC information without OCC approval. The OCC intends this section to preserve the confidentiality of non-public OCC information.

Paragraph (a), which embodies current § 4.18(a), prohibits current and former OCC employees from disseminating non-public OCC information. This paragraph also adds a new provision, which states the OCC's policy of objecting to subpoenas for non-public OCC information when subpoenas are used in lieu of the request procedures of this subpart.

Paragraph (b), which embodies some of current § 4.18(c), prohibits persons who are not current or former OCC employees from disseminating non-public OCC information. This paragraph applies to any person in possession of non-public OCC information, including banks and related individuals and entities. It states the OCC's policy of seeking the return of non-public OCC information from banks or related individuals and entities when necessary. This proposal does not retain the portion of current paragraph § 4.18(c) that states that examination reports are the property of the OCC. That provision will be included in revisions of part 7 (proposed § 7.4000, which addresses books and records of national banks).

Commenters are specifically asked to address whether ''consultants,'' meaning outside professionals who perform services for a bank, should be included in the list of bank-connected persons who are eligible to receive OCC examination reports, or portions thereof, without first obtaining the express approval of the OCC or whether a bank could seek OCC approval for release to particular categories of professional advisors, for all or specified portions of the bank's examination report. Under current § 4.18(c), attorneys, auditors, and independent auditors are included in the list of persons eligible to receive reports. Commenters are also asked to address: (1) Whether release to other professional advisors, if permitted, should be limited to certain types of advisors, and/or certain portions of the examination report, and (2) the nature of the confidentiality undertaking that would be required before any material could be provided.

Paragraph (c), which embodies current § 4.18(b), preserves the OCC's current policies and procedures for sharing information with other government agencies. This proposal deletes the last sentence of current paragraph 4.18(b), which prohibits persons and other entities from disclosing OCC non-public information, because it would be redundant in light of the general prohibition on dissemination of information stated in § 4.36(b)(1).

Paragraph (d) makes clear that non-public OCC information does not lose its non-public status when released to a person or entity. The paragraph states that the possession of non-public OCC information by any entity or individual is not a waiver of the OCC's right to control further use or dissemination of information.

Section 4.37—Limitation on Dissemination of Released Information

Proposed § 4.37 permits the OCC to condition release of non-public OCC information on the issuance of a protective order and the sealing of transcripts. The OCC intends this new section to enable the OCC to prevent the further dissemination of the

information. A model stipulation and protective order is printed at appendix A to this subpart. The section also specifies that the OCC may authorize the use of the same records or testimony in another case.

Section 4.38—Procedures for Sharing and Using OCC Records in Litigation

Proposed section 4.38(a) requires parties to a case to share released records among litigants. This requirement eliminates the need for requesters to file duplicative requests.

Paragraph (b) requires all requesters to retrieve released non-public OCC information from court files and requires all parties to destroy non-public OCC information covered by a protective order. The OCC intends these new provisions to ensure the confidentiality of the information.

Paragraph (c) informs requesting litigants that the OCC will authenticate its documents for use as evidence.

Section 4.39—Fees for Services

Proposed § 4.39 sets out the fee schedules that apply when the OCC provides records or authorizes testimony from current or former employees.

Paragraph (a) addresses fees for document searches, copying, and certifications, and adopts the standards of subpart B, § 4.17, concerning document releases under the FOIA. This paragraph also specifies that the OCC may contract with commercial copiers and requires requesters to pay the costs of that copying.

Paragraph (b) addresses testimony and adopts the standards of 28 U.S.C. 1821. This paragraph also specifies that, when current OCC employees testify, the requester must pay the witness fees to the OCC.

Subpart D—Contracting Outreach Program

The OCC proposes to relocate its rules regarding the contracting outreach program from current subpart C to a new subpart D, and to renumber them. These changes do not amend or affect in any way the substance of the rules.

Part 10

The OCC proposes to eliminate forms and instructions from its rules regarding municipal securities dealers. The Municipal Securities Rulemaking Board (MSRB) created the forms found in part 10, Forms MSD–4 and MSD–5, to provide for uniform municipal securities dealer filings among the Federal financial institution supervisory agencies. While part 10 continues to require certain persons to file Forms MSD–4 and MSD–5, the OCC considers it unnecessary to incorporate these detailed forms and instructions into OCC regulations. The OCC also is concerned that a lag between MSRB revision of a form and appearance of the revised form in OCC regulations may cause confusion for bank filers. Moreover, national banks that act as municipal securities dealers do not copy and enlarge the forms from the OCC's regulations in practice, contrary to the OCC's expectations at the time it included the forms in its regulations. Instead, the majority of national bank municipal securities dealers obtain forms directly from the OCC. Therefore, the OCC finds it unnecessary to publish the forms in its regulation. The proposal, however, adds a provision indicating that the OCC's Chief National Bank Examiner's Office will provide copies of Forms MSD–4 and MSD–5, with instructions, to any bank that requests them. The OCC also proposes to make technical amendments to the rules. These changes clarify the rules, eliminate unnecessary provisions, and help to ensure that banks are using current forms for their filings.

Part 11

The OCC proposes to make technical amendments to its rules regarding disclosure under various provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78m, 78n, 78p, and 78w). The proposal updates the reference to the name of the division that receives filings, and specifies the division that receives requests for copies of filings, among other minor changes. These changes simply update and clarify the regulation.

Part 18

The OCC proposes to amend its rules regarding annual financial disclosures by national banks to conform the OCC's rules to language adopted in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub.L. 101–73, 103 Stat. 187, that describes persons subject to administrative enforcement action by the Federal banking agencies. Specifically, section 901(b) of FIRREA amended 12 U.S.C. 1811 *et seq.*, by substituting the term ''institution-affiliated party'' for the terms ''director,'' ''officer,'' ''employee,'' ''agent,'' and ''other person participating in the conduct of the affairs of a bank.'' The term ''institution-affiliated party'' is defined at 12 U.S.C. 1813(u). The proposal makes similar amendments to the provision that indicates the parties subject to administrative action for violations of part 18. The OCC also proposes to make technical amendments to the regulation. These changes update and clarify the regulation, and conform the regulation to statutory language.

31 CFR Part 1

The OCC proposes to amend appendix J of subpart A and appendix J of subpart C. Subpart A contains the Department of the Treasury's FOIA rules, and subpart C contains the Department of the Treasury's Privacy Act rules. The various appendices to subparts A and C contain standardized information about components of the Department of the Treasury, including officials and addresses relevant to the implementation of the FOIA and the Privacy Act. Appendix J in subpart A and appendix J in subpart B, entitled ''Office of the Comptroller of the Currency,'' contain information about the OCC.

The Department of the Treasury, at 31 CFR 1.1(d) and 1.20, has authorized the head of each of its components to substitute the officials designated and change the addresses specified in the appendices corresponding to that component. Pursuant to this grant of authority, the OCC proposes to amend the OCC administrative information in appendix J of subpart A and appendix J of subpart C. These changes update regulatory information specific to the OCC.

Derivation Table for 12 CFR Part 4

This table directs readers to the provisions of the current 12 CFR part 4, if any, on which the revised 12 CFR part 4 is based.

Revised provision	Current provision	Comments
Subpart A:		
§ 4.1	§ 4.1	Significantly modified.
§§ 4.2–4.5	§ 4.1a	Significantly modified.
Subpart B:		
§ 4.11	§ 4.1	Significantly modified.
§ 4.12(a)	§ 4.16(a)	Modified.

Revised provision	Current provision	Comments
(b)	§ 4.16(b)	Modified.
(c)		Added (see 5 U.S.C. 552(c)(1)).
(d)	§ 4.16(c)	Modified.
(e)	§ 4.16(d)	Modified.
§ 4.13	§ 4.14(a)	Significantly modified.
§ 4.14(a)(1)–(4)	§ 4.15(a)(1)–(4)	Modified.
(a)(5)	§ 4.15(b)	Modified.
(a)(6)	§ 4.14(b)	Modified.
(a)(7)	§ 4.13	Modified.
(b)	§ 4.15(c)	Modified.
(c)		Added.
§ 4.15(a)	§ 4.16(a)	Modified.
(b)	§ 4.17(b), (c), and (d)(1)	Significantly modified.
(c)	§§ 4.17(d)(2), (d)(3), and (g), and 4.17a(b).	Significantly modified.
(d)	§§ 4.17(e) and 4.17a(c)	Modified.
(e)(1)		Added (see 5 U.S.C. 552(a)(4)(B)).
(e)(2)	§ 4.17(f)	Modified.
(f)	§ 4.17a(d)	Modified.
(g)	§ 4.17a(a)	Modified.
§ 4.16	§ 4.18(d)	Modified.
§ 4.17	§ 4.17(h)	Modified.
Subpart C:		
§ 4.31		Added.
§ 4.32		Added.
§ 4.33	§ 4.19	Significantly modified.
§ 4.34		Added.
§ 4.35	§ 4.19	Significantly modified.
§ 4.36(a)	§§ 4.18(a) and 4.19	Significantly modified.
(b)	§§ 4.18(c) and 7.6025(c)	Significantly modified.
(c)	§ 4.18(b)	Modified.
(d)		Added.
§ 4.37		Added.
§ 4.38		Added.
§ 4.39		Added.
Subpart D:		
§§ 4.61–4.66	§§ 4.61–4.74	Renumbered.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This regulation is primarily clarifying in nature and has no material impact on national banks, regardless of size.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

The collections of information contained in this proposed rule have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557–AA67), Washington, DC 20503, with copies to the Legislative and Regulatory Activities Division (1557–AA67), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

The collections of information in this proposed rule are found in 12 CFR 4.33 and 4.35 through 4.38. The OCC needs this information to provide a more efficient mechanism for expeditiously processing requests for non-public information and for testimony. The likely respondents are businesses and individuals. The estimated annual burden per respondent varies from two to ten burden hours, depending on individual circumstances, with an average of 2.6 hours.

Estimated number of respondents: 110

Estimated annual frequency of responses: 2.3

Estimated total annual reporting burden: 646 hours

List of Subjects

12 CFR Part 4

Administrative practice and procedure, Confidential business information, Freedom of information, National banks, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Women and minority businesses.

12 CFR Part 10

National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 11

Confidential business information, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 18

National banks, Reporting and recordkeeping requirements.

31 CFR Part 1

Confidential business information, Courts, Freedom of information, Government employees, Privacy.

Authority and Issuance

For the reasons set out in the preamble, chapter I of title 12, and subtitle A of title 31, of the Code of Federal Regulations are proposed to be amended as follows:

Comptroller of the Currency

12 CFR Chapter I

1. Part 4 is revised to read as follows:

PART 4—DESCRIPTION OF OFFICE, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

Subpart A—Description of Office

Subpart B—Availability of Information Under the Freedom of Information Act

Subpart C—Release of Non-Public OCC Information

Appendix A to Subpart C—Model Stipulation for Protective Order and Model Protective Order

Subpart D—Minority-, Women-, and Individuals With Disabilities—Owned Business Contracting Outreach Program; Contracting for Goods and Services

Authority: 12 U.S.C. 93a. Subpart A also issued under 5 U.S.C. 552; Subpart B also issued under 5 U.S.C. 552; E.O. 12600. Subpart C also issued under 5 U.S.C. 301, 552; 12 U.S.C. 481, 482, 1821(o), 1821(t); 18 U.S.C. 641, 1905, 1906; 31 U.S.C. 9701. Subpart D also issued under 12 U.S.C. 1833e.

Subpart A—Description of Office

§ 4.1 Purpose.

This subpart describes the general purpose and structure of the Office of the Comptroller of the Currency (OCC), and provides the OCC's principal addresses.

§ 4.2 Office of the Comptroller of the Currency.

The OCC regulates national banks and Federal branches and agencies of foreign banks generally through its power to examine banks, to approve or deny applications for new charters or for changes in corporate or banking structure, to approve or deny activities, to take supervisory actions against banks, and to issue rules and regulations.

§ 4.3 Comptroller of the Currency.

The Comptroller of the Currency (Comptroller), as head of the OCC, is responsible for all OCC programs and functions. The Comptroller is appointed by the President, by and with the advice and consent of the Senate, for a term of five years. The Comptroller serves as a member of the board of the Federal Deposit Insurance Corporation, a member of the Federal Financial Institutions Examination Council, and a member of the board of the Neighborhood Reinvestment Corporation. The Comptroller is advised and assisted by a policy group and by other OCC employees, who perform the duties and functions that the Comptroller directs.

§ 4.4 Washington office.

The Washington office of the OCC is the main office and headquarters of the OCC. The Washington office directs OCC policy, oversees OCC operations, and is responsible for the direct supervision of certain national banks, including the largest national banks and other national banks requiring special supervision. The Washington office is located at 250 E Street, SW, Washington, DC 20219.

§ 4.5 District and field offices.

(a) *District offices.* Each district office of the OCC is responsible for the direct supervision of the national banks and Federal branches and agencies of foreign banks in its district, with the exception of the national banks supervised by the Washington office. The six district offices cover the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The office address and the geographical composition of each district follows:

District	Office address	Geographical composition
Northeastern	Office of the Comptroller of the Currency, 1114 Avenue of the Americas, Suite 3900, New York, NY 10036.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands.
Southeastern	Office of the Comptroller of the Currency, Marquis One Tower, Suite 600, 245 Peachtree Center Ave., NE, Atlanta, GA 30303.	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.
Central	Office of the Comptroller of the Currency, One Financial Place, Suite 2700, 440 South LaSalle Street, Chicago, IL 60605.	Illinois, Indiana, Kentucky, Michigan, Ohio, Wisconsin.
Midwestern	Office of the Comptroller of the Currency, 2345 Grand Ave., Suite 700, Kansas City, MO 64108.	Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.
Southwestern	Office of the Comptroller of the Currency, 1600 Lincoln Plaza, 500 N. Akard Street, Dallas, TX 75201.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Western	Office of the Comptroller of the Currency, 50 Fremont Street, Suite 3900, San Francisco, CA 94105.	Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Washington, Wyoming, Utah.

(b) *Field offices and duty stations.* Field offices and duty stations support bank supervisory responsibilities of the district offices.

Subpart B—Availability of Information Under the Freedom of Information Act

§ 4.11 Purpose and scope.

(a) *Purpose.* This subpart sets forth the standards, policies, and procedures that the OCC applies in administering the Freedom of Information Act (FOIA) (5 U.S.C. 552).

(b) *Scope.* (1) This subpart delineates the range of information that the FOIA requires the OCC to disclose to the public (§ 4.12). This subpart also describes the three methods by which the OCC discloses information under the FOIA and, where applicable, sets forth the procedures that a person must follow to obtain that information. The three methods are:

(i) Publication in the **Federal Register** (§ 4.13);

(ii) Public inspection and copying (§ 4.14); and

(iii) Specific requests for records (§ 4.15).

(2) This subpart also sets forth predisclosure notice procedures that the OCC follows, in accordance with Executive Order 12600 (3 CFR, 1987 Comp., p.235), when the OCC receives a request under § 4.15 for disclosure of records that arguably are exempt from disclosure as confidential commercial information (§ 4.16). Finally, this subpart describes the fees that the OCC assesses for the services it renders in providing information under the FOIA (§ 4.17).

(3) This subpart does not apply to a request for records pursuant to the Privacy Act (5 U.S.C. 552a). A person requesting records from the OCC pursuant to the Privacy Act should refer to 31 CFR part 1, subpart C and appendix J of subpart C.

§ 4.12 Information available under the FOIA.

(a) *General.* In accordance with the FOIA, OCC records are available to the public, except the exempt records described in paragraph (b) of this section.

(b) *Exemptions from availability.* The following records, or portions thereof, are exempt from disclosure under the FOIA:

(1) A record that is specifically authorized, under criteria established by an Executive order, to be kept secret in the interest of national defense or foreign policy, and that is properly classified pursuant to that Executive order;

(2) A record relating solely to the internal personnel rules and practices of an agency;

(3) A record specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(4) A record that is privileged or contains trade secrets and commercial or financial information, furnished in confidence, that relates to the business, personal, or financial affairs of any person (see § 4.16 for notice requirements regarding disclosure of confidential commercial information);

(5) An intra-agency or interagency memorandum or letter not routinely available by law to a private party in litigation, including, but not limited to, memoranda, reports, and other documents prepared by OCC employees, and records of deliberations and discussions at meetings of OCC employees;

(6) A personnel, medical, or similar record, including a financial record, or any portion thereof, where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) A record or information compiled for law enforcement purposes, but only to the extent that the OCC reasonably believes that producing the record or information may:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of the right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution that furnished information on a confidential basis;

(v) Disclose information furnished by a confidential source, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation;

(vi) Disclose techniques and procedures for law enforcement investigations or prosecutions, or disclose guidelines for law enforcement investigations or prosecutions if such disclosure reasonably could be expected to risk circumvention of the law; or

(vii) Endanger the life or physical safety of any individual;

(8) A record contained in or related to an examination, operating, or condition report prepared by, on behalf of, or for the use of the OCC or any other agency responsible for regulating or supervising financial institutions; and

(9) A record containing or relating to geological and geophysical information and data, including maps, concerning wells.

(c) *Special exclusion.* Whenever a request pursuant to § 4.15 involves records described in paragraph (b)(7)(i) of this section, the OCC may treat the records as not subject to the requirements of this subpart if, but only for as long as, the following conditions exist:

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) The OCC has reason to believe that:

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records may interfere with enforcement proceedings.

(d) *Discretionary disclosure of exempt records.* Even if a record is exempt under paragraph (b) of this section, the OCC may elect, on a case-by-case basis, not to apply the exemption to the requested record. The OCC's election not to apply an exemption to a requested record under this paragraph (d) has no precedential significance as to the application or nonapplication of the exemption to any other requested record, regardless of who requests the record or when the OCC receives the request.

(e) *Segregability.* The OCC provides copies of reasonably segregable portions of a record to any person properly requesting the record pursuant to § 4.15, after redacting any portion that is exempt under paragraph (b) of this section.

§ 4.13 Publication in the Federal Register.

The OCC generally publishes in the **Federal Register** certain documents for the guidance of the public, including the following:

(a) Proposed and final rules; and

(b) Certain notices and policy statements of concern to the general public.

§ 4.14 Public inspection and copying.

(a) *Available information.* Subject to the exemptions listed in § 4.12(b), the OCC makes the following information readily available for public inspection and copying:

(1) Any final order, agreement, or other enforceable document made in the adjudication of a case, including a final order published pursuant to 12 U.S.C. 1818(u);

(2) Any final opinion made in the adjudication of a case;

(3) Any statement of general policy or interpretation of general applicability not published in the **Federal Register**;

(4) Any administrative staff manual or instruction to staff that may affect a member of the public;

(5) A current index identifying the information referred to in paragraphs (a)(1) through (a)(4) of this section issued, adopted, or promulgated after July 4, 1967;

(6) A list of available OCC publications; and

(7) A list of available OCC forms, and specific forms and instructions.

(b) *Redaction of identifying details.* To the extent necessary to prevent an invasion of personal privacy, the OCC may redact identifying details from any information described in paragraph (a) of this section before making the information available for public inspection and copying.

(c) *Address.* The information described in paragraph (a) of this section is available from the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

§ 4.15 Specific requests for records.

(a) *Available information.* Subject to the exemptions described in § 4.12(b), any OCC record is available to any person upon specific request in accordance with this section.

(b) *Where to submit request or appeal*—(1) *General.* Except as provided in paragraph (b)(2) of this section, a person requesting a record or filing an administrative appeal under this section must submit the request or appeal to the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

(2) *Exceptions*—(i) *District office records.* A person requesting the public portion of any filing or application described in part 5 of this chapter must submit the request to the OCC's Deputy Comptroller of the appropriate district office at the address listed in § 4.5(a).

(ii) *Records at the Federal Deposit Insurance Corporation.* A person requesting any of the following records, other than blank forms, must submit the request to the Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, DC 20429:

(A) Consolidated Report of Condition and Income;

(B) Annual Report of Trust Assets;

(C) Uniform Bank Performance Report; and

(D) Special Report.

(iii) *Records of another agency.* When the OCC receives a request for records in its possession that another Federal agency either generated or provided to the OCC, the OCC promptly informs the requester and immediately forwards the request to that agency for processing in accordance with that agency's regulations.

(c) *Request for records*—(1) *Content of request for records.* A person requesting records under this section must state, in writing:

(i) The requester's full name, address, and telephone number;

(ii) A reasonable description of the records sought (including sufficient detail to enable OCC employees who are familiar with the subject matter of the request to locate the records with a reasonable amount of effort);

(iii) A statement agreeing to pay all fees that the OCC assesses under § 4.17;

(iv) A description of how the requester intends to use the records, if a requester seeks placement in a lower fee category (i.e., a fee category other than ''commercial use requester'') under § 4.17; and

(v) Whether the requester prefers the OCC to deliver a copy of the records or to allow the requester to inspect the records at the appropriate OCC office.

(2) *Initial determination.* (i) The OCC's Director of Communications or that person's designee initially determines whether to grant a request for records that are covered under paragraph (b)(1) of this section.

(ii) The Deputy Comptroller for the appropriate district office or that person's designee initially determines whether to grant a request for records that are covered under paragraph (b)(2)(i) of this section.

(3) *If request is granted.* If the OCC grants a request for records, in whole or in part, the OCC promptly discloses the records in one of two ways, depending on the requester's stated preference:

(i) The OCC may deliver a copy of the records to the requester. If the OCC delivers a copy of the records to the requester, the OCC duplicates the records at reasonable and proper times that do not interfere with their use by the OCC or preclude other persons from making inspections; or

(ii) The OCC may allow the requester to inspect the records at reasonable and proper times that do not interfere with their use by the OCC or preclude other persons from making inspections. If the OCC allows the requester to inspect the records, the OCC may place a reasonable limit on the number of records that a person may inspect during a day.

(4) *If request is denied.* If the OCC denies a request for records, in whole or in part, the OCC notifies the requester by mail. The notification is dated and contains a brief statement of the reasons for the denial, sets forth the name and title or position of the official making the decision, and advises the requester of the right to an administrative appeal in accordance with paragraph (d) of this section.

(d) *Administrative appeal of a denial*—(1) *Procedure.* A requester must submit an administrative appeal of denial of a request for records in writing within 35 days of the date of the initial determination. The appeal must include the circumstances and arguments supporting disclosure of the requested records.

(2) *Appellate determination.* The Comptroller or the Comptroller's designee determines whether to grant an appeal of a denial of a request for OCC records.

(3) *If appeal is granted.* If the OCC grants an appeal, in whole or in part, the OCC treats the request as if it were originally granted, in whole or in part, by the OCC in accordance with paragraph (c)(3) of this section.

(4) *If appeal is denied.* If the OCC denies an appeal, in whole or in part, the OCC notifies the requester by mail. The notification contains a brief statement of the reasons for the denial, sets forth the name and title or position of the official making the decision, and advises the requester of the right to judicial review of the denial under 5 U.S.C. 552(a)(4)(B).

(e) *Judicial review*—(1) *General.* If the OCC denies an appeal pursuant to paragraph (d) of this section, or if the OCC fails to make a determination within the time limits specified in paragraph (f) of this section, the requester may commence an action to compel disclosure of records, pursuant to 5 U.S.C. 552(a)(4)(B), in the United States district court in:

(i) The district where the requester resides;

(ii) The district where the requester's principal place of business is located;

(iii) The district where the records are located; or

(iv) The District of Columbia.

(2) *Service of process.* In commencing an action described in paragraph (e)(1) of this section, the requester, in addition to complying with the Federal Rules of Civil Procedure for service upon the United States or agencies thereof, must serve process on the Chief Counsel, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

(f) *Time limits*—(1) *Request.* The OCC makes an initial determination to grant or deny a request for records within ten

business days after the date of receipt of the request, as described in paragraph (g) of this section, except as stated in paragraph (f)(3) of this section.

(2) *Appeal.* The OCC makes a determination to grant or deny an administrative appeal within 20 business days after the date of receipt of the appeal, as described in paragraph (g) of this section, except as stated in paragraph (f)(3) of this section.

(3) *Extension of time.* The time limits set forth in paragraphs (f)(1) and (2) of this section may be extended as follows:

(i) *In unusual circumstances.* The OCC may extend the time limits in unusual circumstances for a maximum of ten business days. If the OCC extends the time limits, the OCC provides written notice to the person making the request or appeal, containing the reason for the extension and the date on which the OCC expects to make a determination. Unusual circumstances exist when the OCC requires additional time to:

(A) Search for and collect the requested records from field facilities or other buildings that are separate from the office processing the request or appeal;

(B) Search for, collect, and appropriately examine a voluminous amount of requested records;

(C) Consult with another agency that has a substantial interest in the determination of the request; or

(D) Allow two or more components of the OCC that have substantial interest in the determination of the request to consult with each other;

(ii) *By agreement.* A requester may agree to extend the time limits for any amount of time; or

(iii) *By judicial action.* If a requester commences an action pursuant to paragraph (e) of this section for failure to comply with the time limits set forth in this paragraph (f), the court with jurisdiction may, pursuant to 5 U.S.C. 552(a)(6)(C), allow the OCC additional time to complete the review of the records requested.

(g) *Date of receipt of request or appeal—*(1) *Request.* The date of receipt of a request for records is the date that the appropriate OCC office, as indicated in paragraphs (b)(1) and (b)(2)(i) of this section, receives a request that satisfies the requirements of paragraph (c)(1) of this section, except as provided in § 4.17(d).

(2) *Appeal.* The date of receipt of an appeal is the date that the OCC office identified in paragraph (b)(1) of this section receives a request that satisfies the requirements of paragraph (d)(1) of this section, except as provided in § 4.17(d).

§ 4.16 Predisclosure notice for confidential commercial information.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Confidential commercial information* means records that arguably contain material exempt from release under Exemption 4 of the FOIA (5 U.S.C. 552(b)(4); § 4.12(b)(4)), because disclosure reasonably could cause substantial competitive harm to the submitter.

(2) *Submitter* means any person or entity that provides confidential commercial information to the OCC. This term includes, but is not limited to, corporations, State governments, foreign governments, and banks and their employees, officers, directors, and principal shareholders.

(b) *Notice to submitter—*(1) *When provided.* In accordance with Executive Order 12600 (3 CFR, 1987 Comp., p.235), when the OCC receives a request under § 4.15 for disclosure of confidential commercial information, the OCC provides a submitter with prompt written notice of the receipt of that request, except as provided in paragraph (b)(2) of this section, in the following circumstances:

(i) With respect to confidential commercial information submitted to the OCC prior to January 1, 1988, where:

(A) The records are less than ten years old and the submitter designated the information as confidential commercial information;

(B) The OCC reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter; or

(C) The information is subject to a prior express OCC commitment of confidentiality; or

(ii) With respect to confidential commercial information submitted to the OCC on or after January 1, 1988, where:

(A) The submitter in good faith designated the information as confidential commercial information;

(B) The OCC designated the class of information to which the requested information belongs as confidential commercial information; or

(C) The OCC reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(2) *Exceptions.* The OCC does not provide notice under paragraph (b)(1) of this section if the OCC determines that:

(i) It will not disclose the information;

(ii) The information already has been disclosed officially to the public;

(iii) The OCC is required by law (other than 5 U.S.C. 552) to disclose the information;

(iv) The OCC acquired the information in the course of a lawful investigation of a possible violation of criminal law;

(v) The submitter did not designate the requested information as confidential commercial information under paragraph (b)(1)(ii)(A) of this section, if the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the OCC has substantial reason to believe that disclosure of the information would result in competitive harm; or

(vi) The OCC determines that the submitter's designation under paragraph (b)(1)(ii)(A) of this section appears obviously frivolous; however, the OCC provides the submitter with written notice of any final administrative determination to disclose the information, at least ten business days prior to the date that the OCC intends to disclose the information.

(3) *Content of notice.* The OCC either describes in the notice the exact nature of the confidential commercial information requested or includes with the notice copies of the records or portions of records containing that information.

(4) *Expiration of notice period.* The OCC provides notice under this paragraph (b) with respect to information that the submitter designated under paragraph (b)(1)(ii)(A) of this section only for a period of ten years after the date of the submitter's designation, unless the submitter requests and justifies to the OCC's satisfaction a specific notice period of greater duration.

(5) *Certification of confidentiality.* If possible, the submitter should support the claim of confidentiality with a statement or certification (by an officer or authorized representative, for an entity), that the requested information is confidential commercial information that the submitter has not disclosed to the public.

(c) *Notice to requester.* If the OCC provides notice to a submitter under paragraph (b) of this section, the OCC notifies the person requesting confidential commercial information (requester) that it has provided notice to the submitter. The OCC also advises the requester that there is a delay in its decision of whether to grant or deny access to the information sought, that this delay may be considered a denial of access to the information, and that the requester may proceed with an administrative appeal or seek judicial review. However, the requester may agree to a voluntary extension of time to allow the OCC to review the submitter's

objection to disclosure (see § 4.15(f)(3)(ii)).

(d) *Opportunity to object to disclosure.* Within ten days after receiving notice under paragraph (b) of this section, the submitter may provide the OCC with a detailed statement of objection to disclosure of the information. That statement must specify the grounds for withholding any of the information under any exemption of the FOIA. Any statement that the submitter provides under this paragraph (d) may be subject to disclosure under the FOIA.

(e) *Notice of intent to disclose.* The OCC considers carefully a submitter's objection and specific grounds for nondisclosure prior to determining whether to disclose the requested information. If the OCC decides to disclose information over the objection of the submitter, the OCC provides to the submitter, with a copy to the requester, a written notice that includes:

(1) A statement of the OCC's reasons for not sustaining the submitter's objections to disclosure;

(2) A description of the information to be disclosed;

(3) The anticipated disclosure date (specifically, ten business days after the OCC mails the written notice required under this paragraph (e)); and

(4) A statement that the submitter must notify the OCC immediately if the submitter intends to seek injunctive relief.

(f) *Notice of requester's lawsuit.* Whenever the OCC receives service of process indicating that a requester has brought suit seeking to compel the OCC to disclose information covered by paragraph (b)(1) of this section, the OCC promptly notifies the submitter.

§ 4.17 Fees for services.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Actual costs* means those expenditures that the OCC incurs in providing services (including searching for, reviewing, and duplicating records) in response to a request for records under § 4.15.

(2) *Search* means the process of locating a record in response to a request, including page-by-page or line-by-line identification of material within a record. The OCC may perform a search manually or by electronic means.

(3) *Review* means the process of examining a record located in response to a request to determine which portions of that record should be released. It also includes processing a record for disclosure.

(4) *Duplication* means the process of copying a record in response to a request. A copy may take the form of a paper copy, microform, audiovisual materials, or machine readable material (e.g., magnetic tape or disk), among others.

(5) *Commercial use requester* means a person who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(6) *Educational institution requester* means a person who seeks records on behalf of a public or private educational institution, including a preschool, an elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education that operates a program of scholarly research.

(7) *Noncommercial scientific institution requester* means a person who is not a ''commercial use requester,'' as that term is defined in paragraph (a)(5) of this section, and who seeks records on behalf of an institution operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(8) *Requester who is a representative of the news media* means a person who seeks records for the purpose of gathering news (i.e., information about current events or of current interest to the public) on behalf of, or a free-lance journalist who reasonably expects to have his or her work product published or broadcast by, an entity organized and operated to publish or broadcast news to the public.

(b) *Fees*—(1) *General.* The hourly and per page rate that the OCC generally charges requesters is set forth in the ''Notice of Comptroller of the Currency Fees'' (Notice) described in § 8.8 of this chapter. Any interested person may request a copy of the Notice from the OCC by mail or may obtain a copy at the location described in § 4.14(c). The OCC may contract with a commercial service to search for, duplicate, or disseminate records, provided that the OCC determines that the fee assessed upon a requester is no greater than if the OCC performed the tasks itself. In no case may the OCC contract out responsibilities that the FOIA provides that the OCC alone may discharge, such as determining the applicability of an exemption or whether to waive or reduce a fee.

(2) *Fee categories.* The OCC assesses a fee based on the fee category in which the OCC places the requester. If the request states how the requester intends to use the requested records (see § 4.15(c)(1)(iv)), the OCC may place the requester in a lower fee category; otherwise, the OCC categorizes the requester as a ''commercial use requester.'' If the OCC reasonably doubts the requester's stated intended use, or if that use is not clear from the request, the OCC may place the requester in the ''commercial use'' category or may seek additional clarification. The fee categories are as follows:

(i) *Commercial use requesters.* The OCC assesses a fee for a requester in this category for the actual cost of search, review, and duplication. A requester in this category does not receive any free search, review, or duplication services.

(ii) *Educational institution requesters, noncommercial scientific institution requesters, and requesters who are representatives of the news media.* The OCC assesses a fee for a requester in this category for the actual cost of duplication. A requester in this category receives 100 free pages.

(iii) *All other requesters.* The OCC assesses a fee for a requester who does not fit into either of the above categories for the actual cost of search and duplication. A requester in this category receives 100 free pages and two hours of free search time.

(3) *Special services.* The OCC may comply with a request for special services. The OCC may recover the actual cost of providing any special services.

(4) *Waiving or reducing a fee.* The OCC may waive or reduce a fee under this section whenever, in its opinion, disclosure of records is in the public interest because the disclosure:

(i) Is likely to contribute significantly to public understanding of the operations or activities of the government; and

(ii) Is not primarily in the commercial interest of the requester.

(5) *Fee for unsuccessful search.* The OCC may assess a fee for time spent searching for records, even if the OCC does not locate the records requested.

(c) *Payment of fees.*—(1) *General.* The OCC generally assesses a fee when it delivers the records in response to the request, if any. A requesters must send payment within 30 calendar days of the billing date to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

(2) *Fee likely to exceed $25.* If the OCC estimates that a fee is likely to exceed $25, the OCC notifies the requester of the estimated fee, unless the requester has indicated in advance a willingness to pay a fee as high as that anticipated. If so notified by the OCC,

the requester may confer with OCC employees to revise the request to reflect a lower fee.

(3) *Fee likely to exceed $250.* If the OCC estimates that a fee is likely to exceed $250, the OCC notifies the requester of the estimated fee. In this circumstance, the OCC may require, as a condition to processing the request, that the requester:

(i) Provide satisfactory assurance of full payment, if the requester has a history of prompt payment; or

(ii) Pay the estimated fee in full, if the requester does not have a history of prompt payment.

(4) *Failure to pay a fee.* If the requester fails to pay a fee within 30 days of the date of the billing, the OCC may require, as a condition to processing any further request, that the requester pay any unpaid fee, plus interest (as provided in paragraph (c)(5) of this section), and any estimated fee in full for that further request.

(5) *Interest on unpaid fee.* The OCC may assess interest charges on an unpaid fee beginning on the 31st day following the billing date. The OCC charges interest at the rate prescribed in 31 U.S.C. 3717.

(d) *Tolling of time limits.* Under the circumstances described in paragraphs (c)(2), (3), and (4) of this section, the time limits set forth in § 4.15(f) (i.e., ten business days from the receipt of a request for records and 20 business days from the receipt of an administrative appeal, plus any permissible extension) begin only after the OCC receives a revised request (if any), under paragraph (c)(2) of this section, an assurance of payment under paragraph (c)(3)(i) of this section, or the required payments under paragraph (c)(3)(i) or (c)(4) of this section.

(e) *Aggregating requests.* When the OCC reasonably believes that a requester or group of requesters is attempting to break a request into a series of requests for the purpose of evading the assessment of a fee, the OCC may aggregate the requests and assess a fee accordingly.

Subpart C—Release of Non-Public OCC Information

§ 4.31 Purpose and scope.

(a) *Purpose.* The purposes of this subpart are to:

(1) Afford an orderly mechanism for the OCC to process expeditiously requests for non-public OCC information, and, when appropriate, for the OCC to assert evidentiary privileges in litigation;

(2) Balance the public's interest in obtaining access to relevant and necessary information with the countervailing public interest of maintaining the effectiveness of the OCC supervisory process and the confidentiality of OCC supervisory information;

(3) Ensure that the OCC's information is used in a manner that supports the public interest and the interests of the OCC;

(4) Ensure that OCC resources are used in the most efficient manner consistent with the OCC's statutory mission;

(5) Prevent undue burden on the OCC;

(6) Limit the expenditure of government resources for private purposes; and

(7) Maintain the OCC's impartiality among private litigants.

(b) *Scope.* (1) This subpart applies to requests for, and dissemination of, non-public OCC information, including requests for records or testimony arising out of civil lawsuits and administrative proceedings to which the OCC is not a party. Lawsuits and administrative proceedings to which the OCC is not a party include proceedings in which a Federal agency is a party in opposition to the private requester.

(2) This subpart does not apply to:

(i) A request for a record or testimony in a proceeding in which the OCC is a party;

(ii) A request for a record that is required to be disclosed under the Freedom of Information Act (FOIA) (5 U.S.C. 552), as described in § 4.12; or

(iii) A request for a record or testimony by:

(A) An agency with authority to investigate violations of criminal law; or

(B) A Federal agency for use in civil or administrative enforcement proceedings.

§ 4.32 Definitions.

(a) *Compelling need* means that the requester has demonstrated, with as much detail as is necessary under the circumstances, that the requested information could contribute substantially to the resolution of one or more specifically identified issues in the case and that the relevant material contained in the testimony is not available from any other source. Sources, without limitation, include the books and records of other persons or entities and non-public OCC records that have been, or might be, released.

(b) *Complete request* means a request containing sufficient information to allow the OCC to make an informed decision.

(c) *Showing that the information has high relevance* means demonstrating, with as much detail as is necessary under the circumstances, that the requested information could contribute substantially to the resolution of one or more specifically identified issues in the case.

(d) *Non-public OCC information* means information that the OCC is not required to release under the FOIA (5 U.S.C. 552) or that the OCC has not yet published or made available pursuant to 12 U.S.C. 1818(u) and includes:

(1) A record created or obtained by the OCC in connection with the OCC's performance of its responsibilities, such as a record concerning supervision, licensing, regulation, and examination of a national bank, a bank holding company, or an affiliate;

(2) A record compiled by the OCC in connection with the OCC's enforcement responsibilities;

(3) A report of examination, supervisory correspondence, an investigatory file compiled by the OCC in connection with an investigation, and any internal agency memorandum, whether the information is in the possession of the OCC or some other individual or entity;

(4) Confidential OCC information obtained by a third party or otherwise incorporated in the records of a third party, including another government agency;

(5) Testimony from, or an interview with, a current or former OCC employee, officer, or agent concerning information acquired by that person in the course of his or her performance of official duties or due to that person's official status; and

(6) Confidential information relating to no longer operating national banks, their subsidiaries and affiliates, as well as confidential information relating to operating national banks, their subsidiaries and affiliates.

(e) *Testimony* means an interview or sworn testimony on the record.

§ 4.33 Requirements for a request of records or testimony.

(a) *Generally.*—(1) *Form of request.* A person seeking non-public OCC information must submit a request in writing to the OCC. The requester must explain, in as detailed a description as is necessary under the circumstances, the bases for the request and how the requested non-public OCC information relates to the issues in the lawsuit or matter.

(2) *Expedited requests.* A requester seeking a response in less than 60 days must explain why the request was not submitted earlier and why the OCC should expedite the request.

(3) *Requests arising from adversarial matters.* Where the requested

information is to be used in connection with an adversarial matter:

(i) The OCC generally will require that the lawsuit or administrative action has been filed before it will consider the request;

(ii) The request must include:

(A) A copy of the complaint or other pleading setting forth the assertions in the case;

(B) The caption and docket number of the case;

(C) The name, address, and phone number of counsel to each party in the case; and

(D) A description of any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information;

(iii) The request must address any potential privileges the OCC may assert to withhold the information by:

(A) Showing that the information has high relevance to the purpose for which it is sought;

(B) Showing that other evidence reasonably suited to the requester's needs is not available from any other source;

(C) Showing that the need for the information clearly outweighs any public interest considerations in maintaining the confidentiality of the OCC information and outweighs the burden on the OCC to produce the information;

(D) Explaining how the issues in the case and the status of the case warrant that the OCC waive privilege; and

(E) Identifying any other issue that may bear on the question of waiver of privilege by the OCC.

(b) *Requests for records.* If the request is for a record, the requester must adequately describe the record or records sought by type and date.

(c) *Requests for testimony.*—(1) *Generally.* A requester seeking testimony:

(i) Must show a compelling need for the requested information; and

(ii) Should request OCC testimony with sufficient time to obtain the testimony in deposition form.

(2) *Trial or hearing testimony.* A requester seeking testimony at a trial or hearing must show that a deposition would not suffice.

§ 4.34 Where to submit a request.

(a) *A request for non-public OCC information:* A person requesting information under this subpart, requesting authentication of a record under § 4.38(c), or submitting a notification of the issuance of a subpoena or compulsory process under § 4.36, must send the request or notification to: Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219, Attention: Director, Litigation Division.

(b) *Combined requests for non-public and other OCC information:* A person requesting public OCC information and non-public OCC information under this subpart may submit a combined request for both to the address in paragraph (a) of this section. If a requester decides to submit a combined request under this section, the OCC will process the combined request under this subpart and not under subpart B of this part (FOIA).

§ 4.35 Consideration of requests.

(a) *In general*—(1) *OCC discretion.* The OCC decides whether to release non-public OCC information based on its weighing of all appropriate factors including, but not limited to, the requestor's fulfilling of the requirements enumerated in § 4.33. Each decision is at the sole discretion of the Comptroller or the Comptroller's delegate and is a final agency decision.

(2) *Bases for denial.* The OCC may deny a request for non-public OCC information for reasons that include, but are not limited to, the following:

(i) The requester was unsuccessful in showing that the information has high relevance to the purpose for which it is sought;

(ii) The requester seeks testimony and the requestor did not show a compelling need for the information;

(iii) The request arises from an adversarial matter and other evidence reasonably suited to the requester's need is available from another source;

(iv) The request for information should not be granted based on reasons stated in the Federal Rules of Civil Procedure, including Rule 26(b) (28 U.S.C. appendix);

(v) A lawsuit or administrative action has not yet been filed and the request was made in connection with potential litigation; or

(vi) The production of the information would be contrary to the public interest or overly burdensome to the OCC.

(3) *Additional information.* A requester must submit a complete request. The OCC may require the requester to provide additional information to complete a request. Consistent with the purposes stated in § 4.31, the OCC may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.

(4) *Time required by the OCC to decide.* The OCC generally will process requests in the order in which they are received. The OCC will notify the requester in writing of the final decision. Absent exigent or unusual circumstances, the OCC will respond to a request within 60 days from the date that the OCC receives a request that it deems a complete request. Consistent with § 4.33(a)(2), the OCC weighs a request to respond to a request for information in less than 60 days against the unfairness to other requesters whose pending requests may be delayed and the burden imposed on the OCC by the expedited processing.

(b) *Testimony.* (1) The OCC generally will not authorize a current OCC employee to provide expert or opinion evidence for a private party.

(2) The OCC may restrict the scope of any authorized testimony and may act to ensure that the scope of testimony given by the OCC employee adheres to the scope authorized by the OCC.

(3) Once a request for testimony has been submitted, and before the requested testimony occurs, a party to the relevant case, who did not join in the request and who wishes to question the witness beyond the scope of testimony sought by the request, must timely submit the party's own request for OCC information pursuant to this subpart.

(4) The OCC may offer the requester the employee's written declaration in lieu of testimony.

(c) *Release of non-public OCC information by others.* In appropriate cases, the OCC may respond to a request for information by authorizing a party to the case who is in possession of non-public OCC information to release the information to the requester. An OCC authorization to release records does not preclude the party in possession from asserting its own privilege, arguing that the records are not relevant, or asserting any other argument for which it has standing to protect the records from release.

§ 4.36 Persons and entities with access to OCC information; restriction on dissemination.

(a) *OCC employees or former employees*—(1) *Generally.* Except as authorized by this subpart or otherwise by the OCC, no OCC employee or former employee may, in any manner, disclose or permit the disclosure of any non-public OCC information, whether by giving the information or a copy thereof to any person, by allowing any person to inspect, examine, or copy the information or copy thereof, or otherwise, to anyone other than an employee of the Comptroller who is entitled to the information for the performance of OCC duties.

(2) *Duty of person served.* Any OCC employee or former employee subpoenaed or otherwise requested to provide information covered by this subpart must immediately notify the OCC's Litigation Division. The OCC will attempt to have the compulsory process withdrawn and may register appropriate objections when an employee or former employee receives a subpoena, the subpoena requires the employee or former employee to appear or produce OCC information, and no authorization pursuant to this subpart has been given by the OCC to appear or provide information. If necessary, the employee or former employee shall appear as required and respectfully decline to produce the information sought citing this subpart C and *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

(b) *Non-OCC employees or entities.* (1) No person or other entity may, without OCC approval, in any manner, disclose information covered by this subpart, whether by giving the information or a copy thereof to any person, by allowing any person to inspect, examine, or copy the information or a copy thereof, or otherwise.

(2) Except pursuant to a final decision rendered in accordance with § 4.35(a)(1), a national bank or holding company, or any director, officer, or employee thereof, may not, under any circumstances, make public or disclose in any manner non-public OCC information, including information contained in, or related to, OCC reports of examination, to any person or organization not officially connected with the bank as officer, director, employee, attorney, auditor, or independent auditor.

(3) Any person who discloses or uses non-public OCC information except as expressly permitted by the Comptroller of the Currency may be subject to the penalties provided in 18 U.S.C. 641.

(4) The OCC may require any person in possession of OCC records to return the records to the OCC.

(c) *Disclosure to government agencies.* When not prohibited by law, the Comptroller may make available to the Board of Governors of the Federal Reserve System, to the Federal Deposit Insurance Corporation, and, in the Comptroller's sole discretion, to certain other government agencies of the United States and foreign governments, a copy of a report of examination or other non-public OCC information for their use, when necessary, in the performance of their official duties. All reports, documents, and papers made available pursuant to this subpart are OCC property.

(d) *Intention of OCC not to waive rights.* The possession by any of the entities or individuals described in paragraphs (a), (b), and (c) of this section of non-public OCC information does not constitute a waiver by the OCC of its right to control, or impose limitations on, the subsequent use and dissemination of the information.

§ 4.37 Limitation on dissemination of released information.

(a) *Records.* The OCC may condition a decision to release non-public OCC information on entry of a protective order by the court or administrative tribunal presiding in the particular case or, in non-adversarial matters, on a written agreement of confidentiality. In a case in which a protective order has already been entered, the OCC may condition approval for release of non-public OCC information upon the inclusion of additional or amended provisions in the protective order. The OCC may authorize a party who obtained records for use in one case to provide them to another party in another case.

(b) *Testimony.* The OCC may condition its authorization of deposition testimony on an agreement of the parties to appropriate limitations, such as an agreement to keep the transcript of the testimony under seal or to make the transcript available only to the parties, the court, and the jury. Upon request or on its own initiative, the OCC may allow use of a transcript in other litigation. The OCC may require the requester, at the requester's expense, to furnish the OCC with a copy of the transcript. The OCC employee whose deposition was transcribed does not waive his or her right to review the transcript and to note errors.

§ 4.38 Procedures for sharing and using OCC records in litigation.

(a) *Responsibility of litigants to share released records.* The requester must promptly notify other parties to a case of the release of non-public OCC information obtained pursuant to this subpart, and, upon entry of a protective order, must provide copies of OCC information, including OCC information obtained pursuant to § 4.15, to the other parties.

(b) *Retrieval and destruction of released records.* At the conclusion of an action:

(1) The requester must retrieve any non-public OCC information from the court's file as soon as the court no longer requires the information;

(2) Each party must destroy the non-public OCC information covered by the protective order; and

(3) Each party must certify to the OCC that the non-public OCC information covered by the protective order has been destroyed.

(c) *Authentication for use as evidence.* Upon request, the OCC authenticates released records to facilitate their use as evidence. Requesters who require authenticated records or certificates of nonexistence of records should, as early as possible, request certificates from the OCC's Litigation Division pursuant to § 4.34(a).

§ 4.39 Fees for services.

(a) *Fees for records search, copying, and certification.* The requester must pay a fee to the OCC or to an OCC contracted commercial copier for any records search, copying, or certification in accordance with the standards specified in § 4.17. The OCC may require a requester to remit payment prior to providing the requested information.

(b) *Witness fees and mileage.* A person whose request for testimony of a current OCC employee is approved must, upon completion of the testimonial appearance, tender promptly to the OCC payment for the witness fees and mileage. The litigant must compute these amounts in accordance with 28 U.S.C. 1821. A litigant whose request for testimony of a former OCC employee is approved must tender promptly to the witness any witness fees or mileage due in accordance with 28 U.S.C. 1821.

Appendix A to Subpart C—Model Stipulation for Protective Order and Model Protective Order

I. Model Stipulation

Case Caption

Model Stipulation for Protective Order

Whereas, counsel for _____ have applied to the Comptroller of the Currency (hereinafter ''Comptroller'') pursuant to 12 C.F.R. Part 4, Subpart C, for permission to have made available, in connection with the captioned action, certain records; and

Whereas, such records are deemed by the Comptroller to be confidential and privileged, pursuant to 12 U.S.C. 481; 5 U.S.C. 552(b)(8); 18 U.S.C. 641, 1906; and 12 C.F.R. 4.12, and Part 4, Subpart C; and

Whereas, following consideration by the Comptroller of the application of the above described party, the Comptroller has determined that the particular circumstances of the captioned action warrant making certain possibly relevant records as denoted in Appendix ''A'' to this Stipulation [records to be specified by type and date] available to the parties in this action, provided that appropriate protection of their confidentiality can be secured;

Therefore, it is hereby stipulated by and between the parties hereto, through their

respective attorneys that they will be bound by the following protective order which may be entered by the Court without further notice.

Dated this _____ day of _____, 19_____.

_____
Attorney for Plaintiff

_____
Attorney for Defendant

II. Model Protective Order

Case Caption

Model Protective Order

Whereas, counsel for _____ have applied to the Comptroller of the Currency (hereinafter Comptroller'') pursuant to 12 C.F.R. Part 4, Subpart C, for permission to have made available, in connection with the captioned action, certain records; and

Whereas, such records are deemed by the Comptroller to be confidential and privileged, pursuant to 12 U.S.C. 481; 5 U.S.C. 552(b)(8); 18 U.S.C. 641, 1906; and 12 C.F.R. 4.12, and Part 4, Subpart C;

Whereas, following consideration by the Comptroller of the application of the above described party, the Comptroller has determined that the particular circumstances of the captioned action warrant making certain possibly relevant records available to the parties in this action, provided that appropriate protection of their confidentiality can be secured;

Now, therefore, it is ordered That:

1. The records, as denoted in Appendix ''A'' to the Stipulation for this Protective Order, upon being furnished [or released for use] by the Comptroller, shall be disclosed only to the parties to this action, their counsel, and the court [and the jury].

2. The parties to this action and their counsel shall keep such records and any information contained in such records confidential and shall in no way divulge the same to any person or entity, save and except to such experts, consultants and non-party witnesses to whom the records and their contents shall be disclosed, solely for the purpose of properly preparing for and trying the action.

3. No person to whom information and records covered by this Order are disclosed shall make any copies or otherwise use such information or records or their contents for any purpose whatsoever, except in connection with this action.

4. Any party or other person who wishes to use the records or their contents in any other action shall make a separate application to the Comptroller pursuant to 12 C.F.R. part 4, subpart C.

5. Should any records covered by this Order be filed with the Court or utilized as exhibits at depositions in the captioned action, or should information or records or their contents covered by this Order be disclosed in the transcripts of depositions or the trial in the captioned action, such records, exhibits and transcripts shall be filed in sealed envelopes or other sealed containers marked with the title of this action, identifying each document and article therein and bearing a statement substantially in the following form:

Confidential

Pursuant to the Order of the Court dated _____ this envelope containing the above-identified papers filed by (the name of the party) is not to be opened nor the contents thereof displayed or revealed except to the parties to this action or their counsel or by further Order of the Court.

6. For Jury Trial: Any party offering any of the records into evidence shall offer only those pages, or portions thereof, that are relevant and material to the issues to be decided in the action and shall block out any portion of any page that contains information not relevant or material. Furthermore, the name of any person or entity contained on any page of the records who is not a party to this action, or whose name is not otherwise relevant or material to the action, shall be blocked out prior to the admission of such page into evidence. Any disagreement regarding what portion of any page that should be blocked out in this manner shall be resolved by the Court *in camera,* and the Court shall decide its admissibility into evidence.

7. At the conclusion of this action, all parties shall certify to the Comptroller that the records covered by this Order have been destroyed. Furthermore, counsel for _____, pursuant to 12 C.F.R. 4.38(b), shall retrieve any records covered by this Order that may have been filed with the Court.

So Ordered

_____
Judge

Dated: _____

Subpart D—Minority-, Women-, and Individuals With Disabilities-Owned Business Contracting Outreach Program; Contracting for Goods and Services

§ 4.61 Purpose.

Pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Sec. 1216(c), Public Law 101–73, 103 Stat. 183, 529 (12 U.S.C. 1833e(c)) and consistent with the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*), this subpart establishes the OCC Minority-, Women-, and Individuals with Disabilities-Owned Business Contracting Outreach Program (Outreach Program). The Outreach Program is intended to ensure that firms owned and operated by minorities, women, and individuals with disabilities have the opportunity to participate, to the maximum extent possible, in all contracting activities of the OCC.

§ 4.62 Definitions.

(a) *Minority- and/or women-owned (small and large) businesses and entities owned by minorities and women (MWOB)* means firms at least 51 percent unconditionally-owned by one or more members of a minority group or by one or more women who are citizens of the United States. In the case of publicly-owned companies, at least 51 percent of each class of voting stock must be unconditionally-owned by one or more members of a minority group or by one or more women who are citizens of the United States. In the case of a partnership, at least 51 percent of the partnership interest must be unconditionally-owned by one or more members of a minority group or by one or more women who are citizens of the United States. Additionally, for the foregoing cases, the management and daily business operations must be controlled by one or more such individuals.

(b) *Minority* means any African American, Native American (means American Indian, Eskimo, Aleut and Native Hawaiian), Hispanic American, Asian-Pacific American, or Subcontinent-Asian American.

(c) *Individual with disabilities-owned (small and large) businesses and entities owned by individuals with disabilities (IDOB)* means firms at least 51 percent unconditionally-owned by one or more members who are individuals with disabilities and citizens of the United States. In the case of publicly-owned companies, at least 51 percent of each class of voting stock must be unconditionally-owned by one or more members who are individuals with disabilities and who are citizens of the United States. In the case of a partnership, at least 51 percent of the partnership interest must be unconditionally-owned by one or more members who are individuals with disabilities and citizens of the United States. Additionally, for the foregoing cases, the management and daily business operations must be controlled by one or more such individuals.

(d) *Individual with disabilities* means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment, or is regarded as having such an impairment. For purposes of this part, it does not include an individual who is currently engaging in the illegal use of drugs nor an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job as defined by the IDOB.

(e) *Unconditional ownership* means ownership that is not subject to conditions or similar arrangements

which cause the benefits of the Outreach Program to accrue to persons other than the participating MWOB or IDOB.

§ 4.63 Policy.

The OCC policy is to ensure that MWOBs and IDOBs have the opportunity to participate, to the maximum extent possible, in contracts awarded by the OCC. The OCC awards contracts consistent with the principles of full and open competition and best value acquisition, and with the concept of contracting for agency needs at the lowest practicable cost. The OCC ensures that MWOBs and IDOBs have the opportunity to participate fully in all contracting activities that the OCC enters into for goods and services, whether generated by the headquarters office in Washington, DC, or any other office of the OCC. Contracting opportunities may include small purchase awards, contracts above the small purchase threshold, and delivery orders issued against other governmental agency contracts.

§ 4.64 Promotion.

(a) *Scope.* The OCC, under the direction of the Deputy Comptroller for Resource Management, engages in promotion and outreach activities designed to identify MWOBs and IDOBs capable of providing goods and services needed by the OCC, to facilitate interaction between the OCC and the MWOBs and IDOBs community, and to indicate the OCC's commitment to doing business with that community. The Outreach Program is designed to facilitate OCC's participation in business promotion events sponsored by other government agencies and attended by minorities, women and individuals with disabilities. Once the OCC has identified a prospective participant, it will assist the minority- or women-owned business or individual with disabilities-owned business in understanding the OCC's needs and contracting process.

(b) *Outreach activities.* OCC's Outreach Program includes the following:

(1) Obtaining various lists and directories of MWOBs and IDOBs maintained by government agencies;

(2) Contacting appropriate firms for participation in the OCC's Outreach Program;

(3) Participating in business promotion events comprised of or attended by MWOBs and IDOBs to explain OCC contracting opportunities and to obtain names of potential MWOBs and IDOBs;

(4) Ensuring that the OCC contracting staff understands and actively promotes this Outreach Program; and

(5) Registering MWOBs and IDOBs in the Department of the Treasury's database to facilitate their participation in the competitive procurement process for OCC contracts. This database is used by OCC procurement staff to identify firms to be solicited for OCC procurements.

§ 4.65 Certification.

(a) *Objective.* To preserve the integrity and foster the Outreach Program's objectives, each prospective MWOB or IDOB must demonstrate that it meets the ownership and control requirements for participation in the Outreach Program.

(b) *Process-MWOB.* A prospective MWOB may demonstrate its eligibility for participation in the Outreach Program by:

(1) Submitting a valid MWOB certification received from another government agency whose definition of MWOB is substantially similar to that specified in § 4.62(a);

(2) Self-certifying MWOB ownership status by filing with the OCC a completed and signed certification form as prescribed by the Federal Acquisition Regulation, 48 CFR 53.301–129; or

(3) Submitting a valid MWOB certification received from the Small Business Administration.

(c) *Process-IDOB.* A prospective IDOB may demonstrate its eligibility for participation in the Outreach Program by:

(1) Submitting a valid IDOB certification received from another government agency whose definition of IDOB is substantially similar to that specified in § 4.62(c); or

(2) Self-certifying IDOB ownership status by filing with the OCC a completed and signed certification as prescribed in the Federal Acquisition Regulation, 48 CFR 53.301–129, and adding an additional certifying statement to read as follows:

I certify that I am an individual with disabilities as defined in 12 CFR 4.62(d), and that my firm, (Name of Firm) qualifies as an individual with disabilities-owned business as defined in 12 CFR 4.62(c).

§ 4.66 Oversight and monitoring.

The Deputy Comptroller for Resource Management shall appoint an Outreach Program Manager, who shall appoint an Outreach Program Specialist. The Outreach Program Manager is primarily responsible for program advocacy, oversight and monitoring.

PART 10—MUNICIPAL SECURITIES DEALERS

2. The authority citation for part 10 is revised to read as follows:

Authority: 12 U.S.C. 93a; 15 U.S.C. 78o–4(c)(5), and 78q–78w.

§ 10.1 [Amended]

3. In § 10.1, the introductory text is amended by revising the term ''Comptroller of the Currency'' to read ''Office of the Comptroller of the Currency (OCC)''.

§ 10.2 [Amended]

4. In § 10.2, paragraph (b) is amended by revising the term ''Rulemaking board'' to read ''Rulemaking Board''.

5. In § 10.3, paragraph (a) is revised, paragraphs (b) and (c) are amended by revising the term ''Comptroller of the Currency'' to read ''OCC'', and a new paragraph (d) is added to read as follows:

§ 10.3 Filing of documents.

(a) All documents required to be filed with the OCC in accordance with this part are to be filed at the Chief National Bank Examiner's Office, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

* * * * *

(d) Forms MSD–4 and MSD–5, with instructions, may be obtained from the Chief National Bank Examiner's Office at the address listed in paragraph (a) of this section.

§ 10.4 [Amended]

6. In § 10.4, paragraphs (a)(1), (a)(2)(ii), (b)(2)(ii), (c)(1), and (d)(2) are amended by revising the term ''Comptroller of the Currency'' to read ''OCC'', and paragraph (b)(2)(i) is amended by revising the term ''board'' to read ''Board''.

6a. The undesignated centerheading preceding § 10.41 is removed.

§ 10.41 [Removed]

7. Section 10.41 is removed.

§ 10.42 [Removed]

8. Section 10.42 is removed.

PART 11—SECURITIES EXCHANGE ACT DISCLOSURE RULES

9. The authority citation for part 11 is revised to read as follows:

Authority: 12 U.S.C. 93a; 15 U.S.C. 78l, 78m, 78n, 78p, and 78w.

§ 11.1 [Amended]

10. In § 11.1, paragraph (a) is amended in the first sentence by revising the term ''Comptroller'' to read ''Office of the Comptroller of the

Currency (OCC)'', and in the second sentence by revising the term ''Comptroller'' to read ''OCC''.

§ 11.2 [Amended]

11. In § 11.2, paragraph (a) is amended by revising the term ''Comptroller'' to read ''OCC'', and paragraph (c) is amended by revising the term ''Comptroller'' to read ''OCC''.

12. Section 11.3 is revised to read as follows:

§ 11.3 Filing requirements and inspection of documents.

(a) All papers required to be filed with the OCC pursuant to the 1934 Act or regulations thereunder shall be submitted in quadruplicate to the Securities and Corporate Practices Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. Material may be filed by delivery to the OCC through the mail or otherwise. The date on which papers are actually received by the OCC shall be the date of filing, if the person or bank filing the papers has complied with all applicable requirements.

(b) Copies of registration statements, definitive proxy solicitation materials, reports, and annual reports to shareholders required by this part (exclusive of exhibits) are available from the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, at the address listed in paragraph (a) of this section.

13. In § 11.4, paragraph (a) is revised to read as follows:

§ 11.4 Filing fees.

(a) The OCC may require filing fees to accompany certain filings made under this part before it will accept the filing. The OCC provides an applicable fee schedule for such filings in the ''Notice of Comptroller of the Currency Fees'' described in § 8.8 of this chapter.

* * * * *

PART 18—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY NATIONAL BANKS

14. The authority citation for part 18 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, and 1818.

§ 18.1 [Amended]

15. In § 18.1, paragraph (a) is amended by revising the term ''Office's supervisory efforts'' to read ''supervisory efforts of the Office of the Comptroller of the Currency (OCC)''.

16. In § 18.4, paragraph (a)(1)(ii) is amended by revising the term ''Non accrual Loans and Leases'' to read ''Nonaccrual Loans, Leases, and Other Assets'', and paragraphs (b) and (d) are amended by revising the term ''Office'' to read ''OCC'' each place it appears.

17. In § 18.5, paragraph (a) is revised to read as follows:

§ 18.5 Alternative annual disclosure statements.

* * * * *

(a) In the case of a national bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), by its annual report to security holders for meetings at which directors are to be elected;

* * * * *

18. Section 18.9 is amended by revising the term ''Office of the Comptroller of the Currency'' to read ''OCC''.

19. Section 18.10 is revised to read as follows:

§ 18.10 Prohibited conduct and penalties.

(a) No national bank or institution-affiliated party shall, directly or indirectly:

(1) Disclose or cause to be disclosed false or misleading information in the annual disclosure statement, or omit or cause the omission of material or required information in the annual disclosure statement; or

(2) Represent that the OCC, or any employee thereof, has passed upon the accuracy or completeness of the annual disclosure statement.

(b) For purposes of this part, *institution-affiliated party* means:

(1) Any director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, a national bank;

(2) Any other person who has filed or is required to file a change-in-control notice with the OCC under 12 U.S.C. 1817(j);

(3) Any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the OCC (by regulation or case-by-case) who participates in the conduct of the affairs of a national bank; and

(4) Any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in:

(i) Any violation of any law or regulation;

(ii) Any breach of fiduciary duty; or

(iii) Any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the national bank.

(c) Conduct that violates paragraph (a) of this section also may constitute an unsafe or unsound banking practice or otherwise serve as a basis for enforcement action by the OCC including, but not limited to, the assessment of civil money penalties against the bank or any institution-affiliated party who violates this part.

Office of the Secretary of the Treasury

31 CFR Subtitle A

PART 1—DISCLOSURE OF RECORDS

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

21. Under the authority of 12 U.S.C. 93a and 31 CFR 1.1(d), appendix J of subpart A of 31 CFR part 1 is amended by revising paragraphs 2. through 5. to read as follows:

Appendix J—Office of the Comptroller of the Currency

* * * * *

2. *Public reading room.* The Office of the Comptroller of the Currency will make materials available for review on an ad hoc basis when necessary. Contact the Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Office of the Comptroller of the Currency will be made by the Freedom of Information Officer or the official so designated. Requests may be mailed or delivered in person to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the Officer of the Comptroller of the Currency will be made by the Comptroller or the Comptroller's designee. Appeals may be mailed or delivered in person to: Disclosure Officer, Communications Division, Officer of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

5. *Delivery of process.* Service of process will be received by the Chief Counsel and shall be delivered to such officer at the following location: Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

22. Under the authority of 12 U.S.C. 93a and 31 CFR 1.20, appendix J of subpart C of 31 CFR part 1 is amended by revising paragraphs 2. through 6. to read as follows:

Appendix J—Office of the Comptroller of the Currency

* * * * *

2. *Requests for notification and access to records and accountings of disclosures.*

Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office of the Comptroller of the Currency, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in ''Privacy Act Issuances'' published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office of the Comptroller of the Currency will be made by the Comptroller of the Currency or the Comptroller's designee. Appeals shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

5. *Statements of disagreement.* ''Statements of Disagreement'' under 31 CFR 1.27(e)(4)(i) shall be filed with the OCC's Director of Communications at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Office of the Chief Counsel of the Comptroller of the Currency or the delegate of such official and shall be delivered to the following location: Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

* * * * *

Dated: March 9, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 95–7099 Filed 3–24–95; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ASO–8]

Proposed Amendment to Class E Airspace; Millington, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Memphis NAS/Millington Municipal, TN. A VOR/DME RWY 18 Standard Instrument Approach Procedure (SIAP) has been developed for Charles W. Baker Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport. If approved, the operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP. This amendment would also make a technical correction to the location of the Memphis NAS/ Millington Municipal Airport. The correct location of the Memphis NAS/ Millington Municipal Airport is Millington, TN.

DATES: Comments must be received on or before May 10, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 95–ASO–8, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Michael J. Powderly, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ASO–8.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Memphis NAS/Millington Municipal, TN. A VOR/DME RWY 18 SIAP has been developed for Charles W. Baker Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport: If approved, the operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP. This amendment would also make a technical correction to the location of the Memphis NAS/ Millington Municipal Airport. The correct location of the Memphis NAS/ Millington Municipal Airport is Millington, TN. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in CFR 71.1. The Class E airspace designation listed

in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO TN E5 Millington, TN [Revised]

Memphis NAS/Millington Municipal Airport, TN
(Lat. 35°21′20″ N, long. 89°52′10″ W)
Arlington Municipal Airport
(Lat. 35°16′59″ N, long. 89°40′22″ W)
Charles W. Baker
(Lat. 35°16′44″ N, 89°55′53″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Memphis NAS/Millington Municipal Airport, within a 7-mile radius of Arlington Municipal Airport and within a 6.3-mile radius of Charles W. Baker Airport; excluding that airspace within the Memphis, TN Class E airspace area.

* * * * *

Issued in College Park, Georgia, on March 14, 1995.

Michael J. Powderly,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–7499 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 24, 231, 247

Request for Comments Concerning Guides for the Luggage and Related Products Industry, Guides for Shoe Content Labeling and Advertising, and Guides for the Ladies' Handbag Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is requesting public comments on its Guides for the Luggage and Related Products Industry, its Guides for Shoe Content Labeling and Advertising, and its Guides for the Ladies' Handbag Industry. The Commission is also requesting comments about the overall costs and benefits of the Guides and their overall regulatory and economic impact as a part of its systematic review of all current Commission Rules and Guides.

DATES: Written comments will be accepted until May 26, 1995.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580. Comments about the Guides for the Luggage and Related Products Industry should be identified as ''16 CFR Part 24—Comment.'' Comments about the Guides for Shoe Content Labeling and Advertising should be identified as ''16 CFR Part 231—Comment.'' Comments about the Guides for the Ladies' Handbag Industry should be identified as ''16 CFR Part 247—Comment.'' Comments about more than one of the guides should be identified by including reference to all relevant parts, for example ''16 CFR Parts 24, 231 and 247.''

FOR FURTHER INFORMATION CONTACT: Susan E. Arthur, Attorney, Federal Trade Commission, Dallas Regional Office, 100 N. Central Expressway, Suite 500, Dallas, Texas 75201. (214) 767–5503.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has determined, as part of its oversight responsibilities, to review its Rules and Guides periodically. These reviews will seek information about the costs and benefits of the Commission's Rules and Guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying Rules and Guides that warrant modification or recision.

At this time the Commission solicits written public comments concerning the Commission's Guides for the Luggage and Related Products Industry (''Luggage Guides''), 16 CFR Part 24, the Commission's Guides for Shoe Content Labeling and Advertising (''Shoe Content Guides''), 16 CFR Part 231, and the Commission's Guides for the Ladies' Handbag Industry (''Handbag Guides'') 16 CFR Part 247. These Guides are being reviewed together because they all pertain to goods which are frequently made of leather or of material with the appearance of leather.

These three Guides, like the other industry Guides issued by the Commission, ''are administrative interpretation of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry.'' 16 CFR 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions. The Commission promulgates industry Guides ''when it appears to the Commission that guidance as to the legal requirements applicable to particular practices would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by the Commission.'' 16 CFR 1.6.

1. Luggage Guides

The Luggage Guides concern potential deception in the sale, offering for sale, and distribution of luggage and related products, such as trunks, instrument cases, brief cases, billfolds, wallets, key cases, jewel boxes, travel kits, camera bags and similar products. These Guides list disclosures that should be made for products made of split leather, imitation leather, or processed leather, and for products which contain backing material. The Guides address representations that products are made from the skin of fictitious animals and

the use of words, terms, depictions, or devices that may indicate that a product is made of any material when it is not. According to the Guides, industry members should not represent that a product is wholly of a particular composition when it is not, or that a product is leather when it contains ground, pulverized or shredded leather. Additionally, representations should not be made that a product is colored, finished, or dyed with aniline dye or otherwise dyed, embossed, grained, processed, finished or stitched in a certain manner when it is not. The Guides also discuss representations about the hardware, box, or frame of covered products. Use of the terms ''waterproof,'' ''dustproof,'' ''warpproof,'' ''scuffproof,'' and ''scratchproof'' is also covered by the Luggage Guides.

2. Shoe Content Guides

The Shoe Content Guides contain guidance for labeling and advertising shoe content. The Guides address use of the term ''leather'' on labels and labeling disclosures for simulated or imitation leather, concealed innersoles, split leather, embossed or processed leather, and ground or shredded leather. With regard to advertising, the Guides state that disclosures should be made in advertisements which depict non-leather parts of shoes or slippers which appear to be made of leather. The Guides contain guidance for use of the term ''leather'' in advertisements and for disclosures to be used with terms suggestive of leather. The Guides state that words or terms should not be used which would convey the impression that shoes or slippers are made of a certain material when they are not.

3. Handbag Guides

The Handbag Guides concern the potential misrepresentation of any feature of ladies' handbags and similar articles. The Guides provide guidance with respect to the disclosures which should be made regarding product composition and address the use of representations that a product is colored, finished, or dyed with aniline dye or otherwise dyed, embossed, grained, processed, finished or stitched in a certain manner when the claims are not true. Use of the terms ''scuffproof,'' ''scratchproof,'' ''scuff resistant,'' and ''scratch resistant'' is also covered by the Ladies' Handbag Guides. The Guides also state that members of the industry should not make deceptive representations about the price of their products.

In addition, the Handbag Guides discuss the issues of price discrimination, and discrimination in promotional allowances and services. The Guides state that industry members should neither grant nor knowingly induce or receive terms of trade in these respects that are improperly discriminatory. The Commission is concerned, however, that these interpretive statements in large part may be needlessly duplicative of sections (a) and (f) of the Robinson-Patman Act with respect to price discrimination, and duplicative of the so-called Fred Meyer Guides, which interpret sections (d) and (e) of the Robinson-Patman Act and section 5 of the Federal Trade Commission Act, with respect to discriminatory promotional allowances and services. See Guides for Advertising Allowances and Other Merchandising Payments and Services, 16 CFR part 240. Moreover, it is possible that general issues of price discrimination are best clarified through statements of general policy, such as that contained in the Fred Meyer Guides, rather than through industry-specific statements such as the Handbag Guides.

B. Questions for Comment

The Commission solicits comments on the following questions with respect to the Luggage Guides, the Shoe Content Guides, and the Handbag Guides:

(1) Is there a continuing need for the Guides?

(a) What benefits have the Guides provided to purchasers of the products or services affected by the Guides?

(b) Have the Guides imposed costs on purchasers?

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers?

(a) How would these changes affect the costs the Guides impose on firms subject to their requirements?

(b) Would it be useful to the affected industries if the Luggage Guides, the Shoe Content Guides, and the Handbag Guides were combined into one set of industry guides that address all of these products or leather products in general?

(3) What significant burdens or costs, including costs of adherence, have the Guides imposed on firms subject to their requirements?

(a) Have the Guides provided benefits to such firms?

(4) What changes, if any, should be made to the Guides to reduce the burdens of costs imposed on firms subject to their requirements?

(a) How would these changes affect the benefits provided by the Guides?

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guides were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Guides?

(7) Do members of the ladies' handbag industry require these industry-specific Guides for information about the standards applicable to price discrimination and discriminatory promotional allowances, or could equally helpful guidance be obtained from more general sources such as the Fred Meyer Guides?

Authority: 15 U.S.C. 41–58.

List of Subjects in 16 CFR Parts 24, 231, and 247

Advertising, Distribution, Labeling, Ladies' handbags, Luggage and related products, Price discrimination, Promotional allowances, Shoes, Trade practice.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–7468 Filed 3–24–95; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 405

Request for Comments Concerning Rule on Misbranding and Deception as to Leather Content of Waist Belts

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is requesting public comments on its Rule on Misbranding and Deception as to Leather Content of Waist Belts (''the Leather Belt Rule'' or ''the Rule''). The Commission is also requesting comments about the overall costs and benefits of the Rule and its overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides. All interested persons are hereby given notice of the opportunity to submit written comments.

DATES: Written comments will be accepted until May 26, 1995.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580. Comments about the Leather Belt Rule should be identified as ''16 CFR Part 405—Comment.''

FOR FURTHER INFORMATION CONTACT: Russell Deitch, Attorney, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Suite 13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or rescission.

If the Commission elects to retain the Leather Belt Rule after conducting this review, it intends to update certain terms to reflect statutory and policy changes that have occurred since the Leather Belt Rule was originally promulgated. The term ''in commerce'' in 16 CFR 405.1(a) and 405.4 will be changed to ''in or affecting commerce'' in conformance with the amended language of section 5 of the Federal Trade Commission Act (15 U.S.C. 45). The phrase ''capacity and tendency to mislead and deceive'' in 16 CFR 405.2(b) will be changed to conform with the language regarding deception that is set forth in Cliffdale Associates, Inc., 103 F.T.C. 110 (1984) and subsequent cases. Finally, the language that ''it constitutes an unfair method of competition and an unfair and deceptive act or practice'' in 16 CFR 405.4 will also be revised to conform with the standard language for consumer protection rules.

A. Background

The Leather Belt Rule was promulgated by the Commission on June 27, 1964. It applies to the sale or offering for sale of men's and boy's belts, and women's and children's belts when not offered for sale as part of a garment. The Rule makes it an unfair method of competition and an unfair and deceptive act or practice to misrepresent a belt's leather content or the type of animal hide or skin from which the belt is made. for example, it is a violation of the Rule to label a belt as leather when it is not made from the hide or skin of an animal.

The Leather Belt Rule also prohibits the sale or distribution of belts without adequate disclosures as to their leather content or type of animal hide or skin if the appearance of the product would deceive consumers. For example, it is a violation of the Rule to sell a belt which has the appearance of leather, but which is made of synthetic materials, unless a disclosure is made on the product or on a tag or label affixed to the product which states that the belt is not leather.

B. Issues for Comment

At this time, the Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Rule?

(a) What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

(b) Has the Rule imposed costs on purchasers?

(2) What changes, if any, should be made to the rule to increase the benefits of the Rule to purchasers?

(a) How would these changes affect the costs the Rule imposes on firms subject to its requirements?

(3) What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?

(a) Has the Rule provided benefits to such firms?

(4) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?

(a) How would these changes effect the benefits provided by the Rule?

(5) Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Rule was issued, what effects, it any, have changes in relevant technology or economic conditions had on the Rule?

List of Subjects in 16 CFR Part 405

Leather content of belts; Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–7467 Filed 3–24–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL–090]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation Enforcement (OSM), Interior.

ACTION: Proposed rule; pubic comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the merger of the Illinois Department of Mines and Minerals into the newly created Illinois Department of Natural Resources. The amendment is intended to provide formal notification to OSM of this pending reorganization.

DATES: Written comments must be received by 4:00 p.m., [C.S.T.], April 26, 1995. If requested, a public hearing on the proposed amendment will be held on April 21, 1995. Requests to speak at the hearing must be received by 4:00 p.m., [C.S.T.], on April 11, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. James F. Fulton, Director, Springfield Field Office, at the address listed below.

Copies of the Illinois program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492–4495.

Illinois Department of Mines and Minerals, 300 West Jefferson Street, Suite 300, Springfield Illinois 62791, Telephone: (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated March 3, 1995 (Administrative Record No. IL–1700),

Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment at it own initiative. In accordance with 30 CFR 732.17(b), Illinois notified OSM that effective July 1, 1995, the Illinois Department of Mines and Minerals will cease to exist in name only. It will be redesignated the Office of Mines and Minerals.

Specifically, the Illinois Department of Mines and Minerals will be merged into the new Illinois Department of Natural Resources by virtue of Executive Order Number 2 (1995) signed by the Governor of Illinois, on March 1, 1995. Article V, Section 11 of the Constitution of the State of Illinois authorizes the Governor to reassign functions among or reorganize executive agencies which are directly responsible to him in order to simplify the organizational structure of the Executive Branch, to improve accountability, to increase accessibility, and to achieve efficiency and effectiveness in operation.

Executive Order Number 2 (1995) contains the following applicable provisions:

Part I, paragraph C, provides that ''[t]he Department of Natural Resources shall have within it an Office of Mines and Minerals which shall be responsible for the functions previously vested in the Department of Mines and Minerals. . . .;

Part II, paragraph C, transfers the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715/1 *et seq.*) [State Act for the initial program] and the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720.1.01 *et seq.*) [State Act for the permanent program] from the Department of Mines and Minerals to the Department of Natural Resources along with the rights, powers, and duties incidental to these Acts;

In Part III, paragraph A abolishes the Department of Mines and Minerals, paragraph B abolishes the office of the Director of Mines and Minerals, and paragraph C transfer personnel previously assigned to the Department of Mines and Minerals to the Department of Natural Resources; and

Part IV, paragraph F, provides that ''[t]his Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order that have been duly adopted by the agencies reorganized under this Order. As soon as practicable hereafter, the Department of Natural Resources * * * shall propose and adopt under the Illinois Administrative Procedure Act such rules as may be necessary to consolidate and clarify the rules of the various reorganized agencies that will now be administered by the successor agency.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the Commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Springfield Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [C.S.T.] on April 11, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the persons listed under **FOR FURTHER INFORMATION CONTACT**.'' All such meetings will be open to the public and, if possible, notice of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(c)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1995.

Ronald C. Recker,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–7439 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 925

Missouri Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Missouri regulatory program (hereinafter, the ''Missouri program'') under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*, SMCRA). The proposed amendment consists of revisions to rules and statutes along with supporting documentation and information pertaining to its alternative bonding system. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4 p.m., c.s.t. April 26, 1995. If requested, a public hearing on the proposed amendment will be held on April 21, 1995. Requests to present oral testimony at the hearing must be received by 4 p.m., c.s.t. on April 11, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Michael C. Wolfrom at the address listed below.

Copies of the Missouri program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Michael C. Wolfrom, Acting Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, Room 500, Kansas City, MO 64105

Missouri Department of Natural Resources, Land Reclamation Program, P.O. Box No. 176, Jefferson City, MO 65102, Telephone: (314) 751–4041

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

II. Proposed Amendment

By letter dated March 7, 1995, Missouri submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. MO–617). Missouri submitted the proposed amendment in response to a January 30, 1986 letter (administrative record No. MO–351) that OSM sent to Missouri in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 925.16(g). The provisions of the Revised Statutes of Missouri (RSMo) and the Code of State Regulations (CSR) that Missouri proposed to revise were: Section 444.830.1. and 3. (RSMo), Bond requirements, when a bond must be filed, the amount of a bond, and allowance for bond substitution; Section 444.950. (RSMo), Phase I reclamation bond requirements; Section 444.960.1. and 5. (RSMo), establishment, purpose, and duties of the coal mine reclamation fund; Section 444.965.1., 3., 4., 5. and 6. (RSMo), Assessment for fund; 10 CSR 40–7.011, Bond Requirements; 10 CSR 40–7.021, Duration and Release of Reclamation Liability; 10 CSR 40–7.041, Form and Administration of the Coal Mine Land Reclamation Fund. In addition Missouri has submitted: (1) A narrative explaining the current and projected balances of the bond pools; (2) a discussion of how each outstanding required program amendment of the final rule **Federal Register** of May 8, 1991 (56 FR 21281) (administrative record No. MO–536) will be resolved; (3) an explanation of how the deficiencies identified in OSM's issue letter dated March 9, 1994 (administrative record No. MO–592) will be resolved; (4) a table of reclamation cost estimates for all permits except those that represent a minimal liability to the bond pools; (5) a statement from the Missouri Attorney General that explains the legal basis for using Abandoned Mine Land Funds for the reclamation of Bill's Coal Forfeitured Project; and (6) copies of the revised bond forms utilized by Missouri.

Specifically, Missouri proposes to revise its statute and regulations: (1) To remove the option to file a full cost Phase I bond; (2) to provide that the per acre bond amounts are minimums that may be adjusted annually by the commission based upon calculations conducted by the State director; (3) to provide that annual adjustments to the bond amount will not be more than $250 per acre per year with a maximum of $5,000 per acre for all areas except coal preparation areas, and $500 per year with a maximum of $15,000 per acre for coal preparation areas; (4) to require that the minimum bond will not be less than $10,000 per permit; (5) to require that all promulgated rules must be approved by the joint committee on administrative rules; (6) to allow the commission to retain up to 20 percent of the amount of the bond at Phase I liability release and retain that amount until the release of Phase III liability; (7) to require the total amount of the Phase I bond to be available for the completion of all phase of reclamation in the event of bond forfeiture; and (8) to require monies to continue to be accumulated in the CMLR Fund until they are sufficient to complete reclamation of permits revoked prior to September 1, 1988.

In addition, Missouri is revising its regulations to: (1) Provide new definitions of Phase I Bond, Phase II bond, Phase III bond, and surety bond; (2) require for incremental bonding that disturbances are prohibited prior to acceptance of the bond and that a schedule of increments be provided; (3) require that Phase I bond be retained on unreclaimed temporary structures; (4) allow the release of bond from undisturbed lands when further

disturbances from surface mining have ceased; (5) require that the permit shall terminate on all areas where all bonds have been released; and (6) require at Phase III release that the operator provide evidence that an affidavit has been recorded at the county lands affected by underground mining, augering, covered slurry ponds, or other underground activities that could impact future land use for lands where Phase I reclamation was completed on or after September 1, 1992.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732,17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on April 11, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listing under **FOR FURTHER INFORMATION CONTACT.** The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–7437 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Utah permanent regulatory program (hereinafter, the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). The amendment consisted of revisions that Utah proposed to its liability self-insurance rule.

EFFECTIVE DATE: This withdrawal is effective March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION: By letter dated October 4, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT–979). Utah submitted the

proposed amendment at its own initiative with the intention of allowing companies in the coal industry, if they so desired, to provide a certain amount of their liability insurance through self-insurance. The provision of the Utah Coal Mining Rules that Utah proposed to revise was Utah Administrative Rule (Utah Admin. R.) 645–301–890.400, Terms and Conditions for Liability Insurance.

OSM announced receipt of the proposed amendment in the October 21, 1994, **Federal Register** (59 FR 53123), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–982). Because no one requested a public hearing or meeting, none was held. The public comment period ended on November 21, 1994.

During its review of the amendment, OSM identified concerns relating to Utah's proposed rule and notified Utah of the concerns by letter dated November 30, 1994 (administrative record No. UT–992).

In response to OSM's concerns, Utah by letter dated December 16, 1994, submitted copies of the Utah Interlocal Cooperation Act and Utah Governmental Immunity Act that were intended to clarify Utah's proposed rule revisions (administrative record No. UT–999).

OSM announced receipt of the additional explanatory information in the January 10, 1995, **Federal Register** (60 FR 2520), and reopened and extended the comment period (administrative record No. UT–1005). The public comment period ended on January 25, 1995.

During its review of the amendment, OSM identified concerns relating to the additional explanatory information as it applied to Utah's proposed rule and notified Utah of the concerns by letter dated February 14, 1995 (administrative record No. UT–1020).

By letter dated February 24, 1995, Utah requested that the proposed amendment be withdrawn (administrative record No. UT–1026). Utah indicated that it intends to conduct additional research on the issues before resubmitting the amendment at a later date for approval as part of the Utah program.

Therefore, the proposed amendment announced in the October 21, 1994, and January 10, 1995, publications of the **Federal Register** is withdrawn.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 10, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–7438 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

31 CFR Part 1

[No. 94–260]

Privacy Act of 1974; Implementation

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to exempt a system of records from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), to the extent the system contains investigatory material pertaining to the enforcement of laws or compiled for law enforcement purposes. The OTS is also proposing to add a Privacy Act exemption to an existing exempt system.

DATES: Comments must be received no later than April 26, 1995.

ADDRESSES: Send comments to: Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 94–260. These submissions may be hand delivered to 1700 G Street, NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906–7753 or (202) 906–7755. Submissions must be received by 5 p.m. on the day that they are due in order to be considered by the OTS. Comments will be available for inspection at 1700 G Street, NW., from 1 p.m. until 4 p.m. on business days. Visitors will be escorted to and from the Public Reading Room at established intervals.

FOR FURTHER INFORMATION CONTACT: Mary Ann Reinhart, Chief, Disclosure Branch, (202) 906–5896, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The OTS is proposing to exempt the Criminal Referral Database system of records from specified provisions of the Privacy Act and to add an exemption to the Confidential Individual Information System. Subsection (j)(2) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from any section of part 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), provided that the system of records is maintained by ''the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws'' and includes: ''(A) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.'' Section 552a(k) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from sections 552a (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f) of the Act, pursuant to 5 U.S.C. 552a(k)(2), if the system of records is ''investigatory material compiled for the law enforcement purposes, other than material within the scope of subsection (j)(2) * * *.''

If a system of records is not exempted from these sections, the Privacy Act generally requires the agency to: Make an accounting of disclosures to the individual named in the record of their request; permit individuals access to their records; permit individuals to request amendment to their records; maintain only relevant or necessary information in its system of records; publish certain information in the **Federal Register**; and promulgate rules that establish procedures for notice and disclosure of records. The exemptions that may be asserted with respect to investigatory systems of record permit an agency to protect information when disclosure would interfere with the conduct of the agency's investigations.

Exemptions under subsections 552a(j)(2) and (k)(2) are necessary to maintain the integrity and confidentiality of these investigative files. These systems contain information on possible criminal investigations and may indicate current administrative investigations by OTS. The disclosure of this information would significantly impair the enforcement activities and coordinated proceedings of OTS, other financial institution regulatory agencies, and the Justice Department. Disclosure form these systems would give

individuals an opportunity to learn whether they have been identified as either suspects or subjects of criminal referrals. This knowledge would undermine the agency's mission of enforcing federal law, since individuals could take steps to avoid detection; inform associates that a referral had been made; begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or destroy evidence needed to prove the violation. Individuals could alter future wrongful acts to avoid detection by discovering the collection of facts that would form the basis for a criminal referral, by enabling them to destroy or alter evidence of unlawful conduct, and by learning that investigators had reason to believe that there was a violation of laws or regulations. Disclosure could, moreover, disclose the identity of confidential sources and the nature of the information supplied and thereby endanger the physical safety of sources of information by exposing them to reprisals for having provided the information. Confidential sources might refuse to provide valuable referrals if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied. Loss of access to such sources would seriously impair the OTS's and the Justice Department's ability to carry out their mandates. Additionally, disclosure would reveal investigative techniques and procedures, the knowledge of which could enable individuals planning to engage in misconduct or crimes to structure their operations in such a way as to avoid detection or apprehension and thereby neutralize established investigative tools and procedures of both OTS and the Justice Department. The imposition of certain restrictions on the manner in which information is collected, verified or retained could significantly impede the effectiveness of investigation and could preclude the apprehension and successful prosecution of persons engaged in fraud or other unlawful activity.

The OTS investigative files will contain information of the type described in the (j)(2) and (k)(2) exemptions of the Privacy Act. Authority for these systems are provided by 5 U.S.C. 301; 12 U.S.C. 1464, 1818. OTS will maintain information in these systems of records, pursuant to its law enforcement and investigative functions, in order to carry out these functions and its mission.

This rule is not a ''significant regulatory action'' under Executive Order 12866 and will not require the approval of the Office of Management and Budget; therefore, does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, the Department of the Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

§ 1.36 [Amended]

2. Section 1.36 of subpart C is amended by adding the following text at the end of the section as follows:

OFFICE OF THRIFT SUPERVISION

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Acting Director, Office of Thrift Supervision, under authority delegated to him by the Secretary of the Treasury. The Acting Director, Office of Thrift Supervision, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Acting Director, Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a (c) (3) and (4)(D) (1), (2), (3) and (4), (e) (1), (2), (3), (4) (G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**

.001—Confidential Individual Information System

.004—Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Office of Thrift Supervision (OTS) believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are on record either as suspects or as suspects of an administrative investigation; this would compromise the ability of the OTS to complete investigations and to detect and apprehend violators of applicable laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are suspects or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove a violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue administrative investigations and to detect and apprehend violators of applicable laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) By discovering the collection of facts which would form the basis of an enforcement action, and (2) by enabling them to destroy evidence of wrongful conduct which would form the basis of an enforcement action. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning illegal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing established investigative techniques and procedures. Further, granting access to investigative files and records could disclose the identities of confidential sources and other informers and the nature of the information which they supplied, thereby exposing them to possible reprisals for having provided information related to the activities of those individuals who are subjects of the investigative files and records; confidential sources and other informers might refuse to provide investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the OTS to

carry out its mandate to enforce the applicable laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of individuals who compiled information regarding illegal activities, thereby exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the OTS in connection with the investigation, detection and apprehension of violators of the laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators would alert those individuals to the fact that another agency is conducting an investigation into their activities, and this could reveal the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or other apprehension by altering their operations, or by destroying or concealing evidence which would form the basis of an enforcement action. In addition, providing violators with accountings of disclosure would inform those individuals of general information, and alert them that the OTS has information regarding their activities; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552(d) of any record that has been disclosed to the person or agency if an accounting of the record was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the OTS believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The OTS believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the applicable laws for the reasons that revealing sources for information could (1) disclose investigative techniques and procedures, (2) result in possible reprisal directed to informers by the subject under investigation, and (3) result in the refusal of informers to give information or to be candid with investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the OTS, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination whether the information is relevant and necessary, particularly in the early stages of an investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of OTS. Further, not all violations of law discovered during an OTS administrative investigation fall within the investigative jurisdiction of OTS; in order to promote effective law enforcement, OTS is often required to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the OTS through the conduct of a lawful OTS investigation. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of OTS to conduct investigations and to identify, detect and apprehend violators of applicable laws for the following reasons: (1) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the target of the investigation as a source for information regarding his activities, (2) an attempt to obtain information from an individual regarding an investigation will often alert the individual to the existence of such an investigation, thereby affording him an opportunity to conceal his activities so as to avoid apprehension, (3) in certain instances individuals are not required to supply information to investigators as a matter of legal duty, and (4) during investigations it is often a matter of sound investigative procedures to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The OTS believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of applicable laws. In many cases, information is obtained from confidential sources and other individuals under circumstances where it is necessary that the true purpose of their actions be kept secret so as to not let it be known by the target of the investigation or his associates that an investigation is in progress. In many cases, individuals for personal reasons would feel inhibited in talking to a person representing a law enforcement agency but would be willing to talk to a confidential source or to an individual whom them believed was not involved in enforcement activity. In addition, providing information from this system, including written evidence of the identity of the source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the target of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the target of the investigation, particularly where further investigation would result in a finding that he was not involved in unlawful activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines ''maintain'' to include ''collect'' and ''disseminate,'' application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the

necessary flow of information from the OTS to other law enforcement agencies where an OTS investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of an administrative investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The OTS believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(1) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The OTS believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may be related to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraph (a) through (k) above proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the OTS believes that the application of this provision to the above-listed systems of records would adversely affect its ability to conduct investigations by exposing to civil court actions every stage of the investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in conduct in violation of applicable laws.

b. *Specific exemptions under 5 U.S.C. 552a(k)(2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a (c)(3), (d)(1), (2), (3) and (4), (e)(1) and (4)(G), (H), and (I) and (f).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**:

.001—Confidential Individual Information System

.004—Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions (to those of the above-listed systems of records for which no notification procedures have been provided in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**) would impair the ability of the OTS to successfully complete investigations and inquiries of suspected violators of laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as suspected violators of laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation and the type of inquiry being made, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue investigations and inquiries and to detect and apprehend violators of the applicable laws. Permitting access to records contained in the above-listed systems of records would provide violators with significant information concerning the nature of the investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of confidential sources who would not want their identities to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom they supplied information. In some cases mere disclosure of the information provided by a source would reveal the identity of the source either through the process of elimination or by virtue of the nature of the information supplied. If sources could not be assured that their identities (as sources for information) would remain confidential, they would be very reluctant in the future to provide information pertaining to violations of laws and regulations, and this would seriously compromise the ability of the OTS to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the OTS which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the OTS that due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the

above-listed systems of records would impair the ability of the OTS and other law enforcement agencies to conduct investigations and inquiries into violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the OTS or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and dates on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the OTS there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collection may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry; and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the OTS. Further, not all violations of law uncovered during an OTS investigation or inquiry fall within the jurisdiction of the OTS; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the OTS through the conduct of a lawful OTS investigation or inquiry. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from provisions of 5 U.S.C. 552a(e)(1).

Dated: December 15, 1994.

Jonathan L. Fiechter,

Acting Director.

Dated: March 6, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 95–7342 Filed 3–24–95; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD09–95–002]

RIN 2115–AF04

Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the speed limits for vessels, less than 100 gross tons, operating in the nondisplacement mode on connecting waters from Lake Huron to Lake Erie. The normal speed limits in this area are determined in large part by concerns about wake damage. However, lesser wakes are created by nondisplacement vessels and it appears that the normal speed limits unnecessarily impede their passage. The Coast Guard allowed nondisplacement vessels to operate at higher speeds under similar conditions during two temporary test periods from April 1, 1993 to November 30, 1994, with satisfactory results. The Coast Guard invites public comment on this proposed regulation.

DATES: Comments must be received on or before May 26, 1995.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant Katherine E. Weathers, Assistant Chief, Port and Environmental Safety Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth street, Cleveland, Ohio, 44199–2060. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comment to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9:00 a.m. to 3:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Katherine E. Weathers, Assistant Chief, Port and Environmental Safety Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. however, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would contribute to this rulemaking, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

Background and Purpose

Current regulations in 33 CFR 162.138 which apply to connecting waters from Lake Huron to Lake Erie set the maximum speed for vessels 20 meters or more in length at limits ranging from 4 to 12 statute miles per hour in various areas. One of the primary purposes of these speed regulations is to limit wake damage, but they were not written to account for the substantially lesser wake-generating characteristics of nondisplacement vessels. In fact, certain vessels designed for nondisplacement operation which have conducted test operations in the waterway would generate larger wakes at the lower speed now required because they would be forced to operate in a displacement mode. Also, the vessels which have conducted test operations in the waterway operate in a nondisplacement mode by means of a planing action on a catamaran hull, thus obtaining a hydrodynamic lift without use of projecting foils, and have demonstrated their suitability for safe operation in confined and relatively shallow areas. During the 1993 and 1994 navigation season, the Commander of the Ninth Coast Guard District temporarily amended 33 CFR 162.138 in order to allow trial runs of these nondisplacement vessels (33 CFR 162.T139, 58 FR 17526, April 5, 1993 and 59 FR 16563 April 7, 1994). A corresponding exemption was granted by the Central Region of the Canadian Coast Guard, which has authority over the Canadian waters in the same area. The two year trial period has proven successful and the Coast Guard has therefore determined that there should now be a permanent amendment to the regulations in order to prevent an unnecessary restriction on the operation of such vessels. The trial period allowed

nondisplacement vessels less than 100 gross tons to operate in the nondisplacement mode at speeds of not more than 40 statute miles per hour. During the 1993 trial period, one complaint was received alleging excessive wake. Upon investigation, it appeared that the vessel gave the impression of creating an excessive wake because of its relatively high rate of speed during a sharp turn. The Coast Guard was unable to determine if in fact an excessive wake was generated in that one case. There was no damage, and the operator agreed to modify similar maneuvers in the future in order to avoid any problem. No subsequent complaints of any kind were received by the Canadian Coast Guard or the U.S. Coast Guard. During the 1994 trial period, there were no complaints received by either the Canadian Coast Guard or the U.S. Coast Guard. It should be noted that this proposed amendment to the speed regulations for nondisplacement vessels does not in any way excuse the general obligation to exercise good seamanship when maneuvering in close quarters or the responsibility for damage which might be caused by a wake which is excessive in a location close to other vessels or shore structures.

Therefore, based on this successful trial period, and the concurrence from the Director General of the Canadian Coast Guard Central Region, the U.S. Coast Guard is now proposing a permanent change to the speed regulations.

The Coast Guard is setting an upper limit of 40 statute miles per hour for nondisplacement vessels 20 meters or more in length but less than 100 gross tons, and is allowing such nondisplacement vessels to overtake other vessels when otherwise safe. All other navigational regulations will remain in force, and the use of this special rule for nondisplacement vessels is subject to the prior approval of the Captain of the Port in order to insure that the special rule is only used by vessels which are of suitable design and which are in fact operated safely in this waterway.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Katherine E. Weathers, Assistant Chief of the Port and Environmental Safety Branch, and Commander M. Eric Reeves, Chief of the Port and Environmental Safety Branch.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation, and has so certified in the docket file.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation is not intended to preempt any state or local regulation which may also be applicable to vessels operating in the nondisplacement mode.

Regulatory Evaluation

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). The Coast Guard expects the economic impact of this rule be so minimal that a full Regulatory Evaluation under paragraph 10e is unnecessary.

Small Entities

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities. The effect of this regulation is to ease what has now been determined to be an unnecessarily restrictive regulation as applied to one business developing the use of nondisplacement vessels in the area.

Collection of Information

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

List of Subjects in 33 CFR Part 162

Inland waterways, Navigation.

Regulations

In consideration of the foregoing the Coast Guard proposes to amend Part 162 of title 33, Code of Federal Regulations as follows:

PART 162—[AMENDED]

1. The authority citation for Part 162 continues to read as follows:

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

2. In § 162.134, paragraph (f) is added to read as follows:

§ 162.134 Connecting waters from Lake Huron to Lake Erie; traffic rules.

* * * * *

(f) The prohibitions in this section on overtaking in certain areas do not apply to vessels operating in the nondisplacement mode. In this section, ''nondisplacement mode'' means a mode of operation in which the vessel is supported by hydrodynamic forces, rather than displacement of its weight in the water, to an extent such that the wake would otherwise be generated by the vessel is significantly reduced.

3. Section 162.138 is revised to read as follows:

§ 162.138 Connecting waters from Lake Huron to Lake Erie; speed rules.

(a) (1) *Maximum speed limit for vessels in normal displacement mode.* Except when required for the safety of the vessel or any other vessel, vessels of 20 meters or more in length operating in normal displacement mode shall proceed at a speed not greater than—

(i) 12 statute miles per hour (10.4 knots) between Fort Gratiot Light and St. Clair Flats Canal Light 2;

(ii) 12 statute miles per hour (10.4 knots) between Peche Island Light and Detroit River Light; and

(iii) 4 statute miles per hour (3.5 knots) in the River Rouge.

(2) The maximum speed limit is 5.8 statute miles per hour (5 knots) in the navigable channel south of Peche Island (under Canadian jurisdiction).

(b) *Maximum speed limit for vessels operating in nondisplacement mode.)* Except when required for the safety of the vessel or any other vessel, vessels 20 meters or more in length but under 100 gross tons operating in the nondisplacement mode and meeting the requirements set out in paragraph (c) of this section, may operate at a speed not exceeding 40 miles per hour (34.8 knots)—

(1) During daylight hours (sunrise to sunset),

(2) When conditions otherwise safely allow, and

(3) When approval has been granted by the Coast Guard Captain of the Port, Detroit or Commander of the Ninth Coast Guard District prior to each transit of the area. In this section, ''nondisplacement mode'' means a mode of operation in which the vessel is supported by hydrodynamic forces, rather than displacement of its weight in the water, to an extent such that the wake which would otherwise be generated by the vessel is significantly reduced.

(c) The Captain of the Port or the District Commander may deny approval for operations under paragraph (b) of this section if it appears that the design and operating characteristics of the vessels in question are not safe for the designated waterways, or if it appears that operations under this special rule have become unsafe for any reason.

(d) *Temporary speed limits.* The District Commander may temporarily establish speed limits or temporarily amend existing speed limit regulations on the waters described in § 162.130(a).

Dated: March 1, 1995.

Rudy K. Peschel,

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

[FR Doc. 95–7370 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–95–026]

RIN 2115–AA97

Safety Zone: Brick Founder's Day Fireworks, Metedeconk River, Brick, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for the Brick Founder's Day fireworks display located in the Metedeconk River, Brick, New Jersey. The safety zone would be in effect on Saturday June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York. The proposed safety zone would close all waters of the Metedeconk River within a 300 yard radius from the center of the fireworks platform located on Windward Beach, Brick, New Jersey.

DATES: Comments must be received on or before April 26, 1995.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Group, New York, Bldg. 108, Governors Island, New York 10004–5096, or may be delivered to the Maritime Planning Staff, Bldg. 108, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any person wishing to visit the office must contact the Maritime Planning Staff at (212) 668–7934 to obtain advance clearance due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. A 30 day comment period is deemed to be sufficiently reasonable notice to all interested persons. Since this proposed rulemaking is neither complex nor technical, a longer comment period is deemed to be unnecessary and contrary to the public interest. Any delay in publishing a final rule would effectively cancel this event. Cancellation of this event would be contrary to public interest.

Persons submitting comments should include their names and addresses, identify this notice (CGD01–95–026) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coat Guard plans no public hearing; however, persons may request a public hearing by writing to the Maritime Planning Staff at the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On February 23, 1995, the Brick Township Chamber of Commerce submitted an Application for Approval of Marine Event for a fireworks program on Windward Beach in the Metedeconk River. This regulation would establish a safety zone in the waters of the Metedeconk River on June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Captain of the Port New York. This safety zone would preclude all vessels from transiting the Metedeconk River within a 300 yard radius of the fireworks platform located on a pier in the approximate position 40°03′25″N latitude 074°06′47″W longitude at Windward Beach, Brick, New Jersey. It is needed to protect mariners from the hazards associated with fireworks exploding in the area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone would close a portion of the Metedeconk River to all vessel traffic on June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Captain of the Port New York. Although this regulation would prevent traffic from transiting this area, the effect of this regulation would not be significant for several reasons. Due to the limited duration of the event; the late hour of the event; that mariners can transit to the south of this area; and the extensive, advance advisories that will be made, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is included in the docket.

List of Subjects in 33 CFR Part 165

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

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T01–026, is added to read as follows:

§ 165.T01–026 Safety Zone; Brick Founder's Day Fireworks, Metedeconk River, Brick, New Jersey.

(a) *Location.* All waters of the Metedeconk River within a 300 yard radius of the fireworks platform located on a pier in the approximate position 40°03′25″ N latitude 074°06′47″ W longitude at Windward Beach, Brick, New Jersey.

(b) *Effective period.* This safety zone is in effect on June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Captain of the Port New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 17, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York, Acting.

[FR Doc. 95–7369 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee (Committee). This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: April 25 and 26, 1995 from 9 a.m. to 5 p.m.

ADDRESSES: The Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877, (301) 977–8900.

FOR FURTHER INFORMATION CONTACT: Nicki Meoli, Program Specialist, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, Room 3053, ROB–3, 600 Independence Avenue, SW, Washington, DC 20202–5400. Telephone: (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee is authorized by sections 432, 457, and 464 of the Higher Education Act of 1965, as amended. The Committee is also established in accordance with the provisions of the Negotiated Rulemaking Act. The Committee will negotiate regulations on borrower defenses, that is, which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under the William D. Ford Federal Direct Loan (Direct Loan) Program, the Federal Family Education Loan (FFEL) Program, and the Federal Perkins Loan (Perkins) Program and the consequences of such defenses for the institution, the Secretary, and, for FFEL Program loans, for the lender and the guaranty agency. The Committee may also negotiate issues regarding whether administrative procedures should be established to adjudicate whether a borrower has a valid defense and the effect the adjudication would have on the rights and liabilities of institutions, lenders, guaranty agencies, and the Secretary.

The meeting of the Committee is open to the public.

The proposed agenda includes:

(1) Welcoming remarks.
(2) Introduction of facilitator and participants.
(3) Discussion of procedural ground rules.
(4) General discussion of participants' perspectives on substantive issues.
(5) Development of issue agendas or drafts for subsequent meetings.

Records are kept of all Committee proceedings and are available for public inspection in Room 3053, ROB–3, 7th and D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Dated: March 20, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–7389 Filed 3–24–95; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5178–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete United States Army Fort Lewis Landfill No. 5 from the National Priorities List: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the United States Army Fort Lewis Landfill No. 5 Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated

pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before April 26, 1995.

ADDRESSES: Comments may be mailed to: Mary Jane Nearman, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: HW–124, Seattle, Washington 98101.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Fort Lewis Landfill No. 5 site information repositories at the following locations:

Tillicum Library, 14916 Washington Avenue SW., Tacoma, WA 98498.
Lakewood Library, 6300 Wildaire Road, Tacoma, WA 98499.
Fort Lewis Environmental and Natural Resources Division, Attn: Paula Wofford, Fort Lewis WA 98433–5000.

FOR FURTHER INFORMATION CONTACT: Mary Jane Nearman, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop: HW–124, Seattle, Washington 98101, (206) 553–6642.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the United States Army Fort Lewis Landfill No. 5 Site at the Fort Lewis Military Reservation, Washington 98433–5000 from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to human health or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Fort Lewis Landfill No. 5 Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site *above* levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, the selected remedy is protective of human health and the environment. Consistent with Section XIX of the Fort Lewis Federal Facility Agreement, the Department of the Army will conduct a five-year review of this final remedy. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 10 and the United States Army issued a Record of Decision which documented that no further remedial action is necessary at Fort Lewis Landfill No. 5 to ensure protection of human health and the environment; (2) Ecology concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Site Background

The Fort Lewis Landfill No. 5 NPL site is a 60-acre landfill located adjacent to the Dupont-Steilacoom Highway on the west side of the Fort Lewis Military Reservation in Pierce County, Washington. It is approximately 1.5 miles north of Dupont and 3.5 miles south of Steilacoom.

B. History

The Fort Lewis Landfill No. 5 NPL site operated from 1967 through July 1990. It accepted mixed municipal solid waste (industrial, commercial, and residential) and demolition waste (concrete, asphalt, wood, steel and other building debris) from the Fort Lewis Military Reservation, VA Medical Center, and McChord Air Force Base.

As a result of iron and manganese contamination found in nearby groundwater, Landfill No. 5 was added to the NPL in 1987. In 1988, the Army, with oversight provided by EPA and the State of Washington Department of Ecology, began a Remedial Investigation

(RI) to characterize the nature and extent of contamination and to assess potential risks to human health and the environment.

Based on the results of the RI and risk assessment, a Record of Decision (ROD) for the Site was signed on July 24, 1992. The ROD documented the decision that no further remedial action was necessary at Fort Lewis Landfill No. 5 because the conditions at the site pose no unacceptable risks to human health or the environment. The Army will continue to implement the operating and closure requirements of Landfill No. 5 under a permit administered by the Tacoma-Pierce County Health Department. The closure complies with State Minimum Functional Standards for Solid Waste Handling, pursuant to Washington Administrative Code (WAC) 173304.

C. Characterization of Risk

The RI included an investigation of the surface water, sediments, air, and groundwater in the vicinity of the landfill. The investigation included a wide range of analyses to detect volatile organic compounds, base/neutral and acid extractable compounds, pesticides, and polychlorinated biphenyls, and inorganic compounds (including metals). Concentrations found were below state and federal regulatory levels and risks for both current and future use were within acceptable levels as defined by the NCP.

The results of the ecological risk assessment indicate that Landfill No. 5 does not pose a threat to ecological receptors or habitats. No endangered or sensitive resident species or critical habitats were identified in the study area.

Confirmational monitoring of groundwater demonstrate that no significant risk to public health or the environment is posed by residual materials remaining at the Site. EPA and Ecology believe that conditions at the site pose no unacceptable risks to human health or the environment.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if ''the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.'' EPA, with concurrence of Ecology, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: March 17, 1995.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 95–7495 Filed 3–24–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

Notice of Advisory Committee Establishment; Notice of Advisory Committee Meetings

AGENCY: Federal Communications Commission.

ACTION: Notice of meetings.

SUMMARY: The Federal Communications Commission (FCC) has established the Hearing Aid Compatibility Negotiated Rulemaking Committee (Committee), as part of proceeding the FCC's CC Docket No. 87–124. The FCC understands that approval by the Office of Management and Budget of the establishment of this ad-hoc Committee is imminent.

The Committee will provide recommendations to the Federal Communications Commission (FCC) to be used in the formulation of requirements for hearing aid compatible telephones in work places, hospitals, certain other health care facilities, prisons, hotels and motels. Included among the recommendations will be one on whether to lift the suspension of enforcement of Sections 68.112(b) (1), (3), and (5) of the Commission's Rules. 47 CFR §§ 68.112(b)(1), (3), (5). Those sections require that all telephones in all work places, hospitals, certain other health care facilities, prisons, hotels and motels be hearing aid compatible by May 1, 1993 for establishments with 20 or more employees and by May 1, 1994 for establishments with fewer than 20 employees. The scope of the activity of the Committee will include all steps necessary to assemble data, perform analyses, and provide advice to the FCC concerning all of the issues required to address the regulation of telephones which need to be hearing aid compatible, as discussed in the Commission's public notice of November 7, 1994, FCC 94–280. The establishment of this Committee is necessary and in the public interest.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice also advises interested persons of the initial and proposed subsequent meetings of the Committee.

DATES:

April 13, 1995, 9:30 a.m. edt
April 20, 1995, 9:30 a.m. edt
April 27, 1995, 9:30 a.m. edt
May 11, 1995, 9:30 a.m. edt
May 18, 1995, 9:30 a.m. edt
May 25, 1995, 9:30 a.m. edt
May 30, 1995, 9:30 a.m. edt
June 13, 1995, 9:30 a.m. edt.

ADDRESSES: For the meetings of April 13, April 27, and May 18 and May 25, Federal Communications Commission, 1919 M Street NW., Room 856, Washington, DC 20554; for the meetings of April 20, May 11, May 30, and June 13, International Bureau, FCC, Eighth Floor, 2000 M Street NW., Washington, DC 20554; or as otherwise announced at the meetings.

FOR FURTHER INFORMATION CONTACT: Greg Lipscomb, Designated Federal Official of the Hearing Aid Compatibility Negotiated Rulemaking Committee, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, Federal Communications Commission, Mail Stop 1600B2, 2025 M Street NW., Suite 6008, Washington, D.C. 20054; Voice (202) 634–4216; TTY (202) 632–0484; Fax (202) 634–6625; Internet address: glipscom@fcc.gov

SUPPLEMENTARY INFORMATION: The Committee was established by the Federal Communications to bring together significantly affected entities to discuss and to recommend approaches to developing recommendations to the FCC for requirements for hearing aid compatible (HAC) telephones in work places, hospitals, certain other health care facilities, prisons, hotels and motels. The FCC has solicited nominations for membership on the Committee pursuant to the Negotiated Rulemaking Act of 1990, Public Law 101–648, November 28, 1990, and will select members which are significantly affected by the proposed rules. See Public Notice in CC Docket No. 87–124, FCC 94–280, 59 FR 60343, November 23, 1994.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the Committee. The comments must be submitted two business days before the meeting in which the commenter desires his/her comments to be distributed. In addition, comments at the meeting by parties or entities not represented on the Committee will be permitted to the extent time permits. Comments will be limited to five minutes in length by any one party or entity, and request to make such comments to the Committee in person must be received two business

days before the meeting in which the commenter desires to be heard. Requests for comment opportunity, and written comments, should be sent to Greg Lipscomb at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Agenda

The planned agenda for the first meeting is as follows:

1. Introductions and Welcoming Remarks
2. Nomination of Facilitator
3. Introduction of Committee Members
4. Committee Charter and Related Matters
5. Organizational Protocols
6. Agreement on ''Consensus''
7. Work Program and Documentation
8. Organization of Work and Working Groups
9. Meeting Schedule and Locations
10. Agenda for Next Meeting
11. Other Business.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–7379 Filed 3–24–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 45 and 52

Federal Acquisition Regulation; Government Property Class Deviation

AGENCY: Department of Defense.

ACTION: Notice of proposed class deviation.

SUMMARY: The Department of Defense (DoD) is proposing a class deviation from the Federal Acquisition Regulation (FAR) record keeping and physical inventory requirements for Special Tooling, Special Test Equipment and Plant Equipment with an acquisition cost of $1,500 or less. The proposed class deviation will apply to defense contractors, holding them accountable for such property, but relieving them of he requirement to track it, while revisions to the FAR are being drafted.

DATES: Comments on the proposed class deviation should be submitted in writing at the address shown below on or before may 26, 1995 to be considered in the formulation of the final class deviation.

ADDRESSES: Interested parties should submit written comments to: Mrs. Linda W. Neilson, DAR Council, Attn: IMD 3D139, PDUSD(A&T)DP/DAR, 3062 Defense Pentagon, Washington DC 20301–3062. FAX (703) 602–0350.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, telephone (703) 604–5385.

SUPPLEMENTARY INFORMATION:

A. Background

On September 16, 1994, (59 FR 47583) the Director of Defense Procurement, Department of Defense, announced an initiative to rewrite FAR part 45, Government Property, to make it easier to understand and to minimize the burdens imposed on contractors and the government. The Director of Defense Procurement is providing a forum for an exchange of ideas and information with government and industry personnel by holding public meetings, soliciting public comments, and publishing notices of the public meetings in the **Federal Register**. Interested parties were invited to provide written suggestions or comments in the notice of public hearing dated September 16, 1994 (59 FR 47583). Twenty-two commentors provided approximately 500 comments, including a recommendation that relief from the FAR tracking requirements for government property under $1,500 would reduce administrative burdens and provide cost savings.

In order to capture any savings quickly, DoD is proposing a class deviation from current FAR record keeping and physical inventory requirements for Special Tooling, Special Test Equipment and Plant Equipment with an acquisition cost of $1,500 or less. The proposed class deviation was included as a discussion topic at the public meeting held on January 24, 1995 (60 FR 2370). DoD proposes to deviate from certain FAR requirements as follows:

Part 45—Government Property

45.101 Definitions.

- Deviation authorizes the use of two additional definitions:

''Low Value Property,'' as used in this part, means Government property in the classes of special tooling, special test equipment, and plant equipment with an acquisition cost of $1,500 or less. Specifically excluded from this definition are agency-peculiar property, material, real property, and sensitive property.

''Sensitive Property,'' as used in this part, means Government property for which the theft, loss, or misplacement could be potentially dangerous to the public health or safety, or which must be subject to exceptional physical security, protection, control, maintenance, or accountability, including, but not limited to, hazardous property, precious metals, arms, ammunition, explosives, and classified property.

45.504 Contractor's liability.

- Deviation authorizes contractors to report loss, damage, or destruction of items of low value property at contract termination or completion instead of when the facts become known.

45.505 Records and reports of Government property.

- Deviation authorizes the exemption of low value property from the requirement of 45.505(g) for contractor property control systems to contain a system or technique to locate any item of Government property within a reasonable period of time. As a result, periodic physical inventories need not be performed for low value property.

45.505–1 Basic information.

- Deviation excludes low value property from the present requirement for contractors to maintain current location for each item of government property. Contractor's property control records for each item of low value property in the contractor's possession must provide the basic information listed in FAR paragraphs 45.505–1 (a)(1) through (a)(7). However, contractors will not be required to update changes in location of each item of low value property which occur after establishment of the official government property record. This exemption does not apply to ''sensitive property.''

45.508 hysical inventories.

- With the exception of inventories conducted upon termination or completion, the deviation authorizes an exemption for low value property from the requirements of FAR 45.508 for contractors to periodically physically inventory all Government property (except materials issued from stock for manufacturing, research, design, or other services required by the contract) in their possession or control and to cause subcontractors to do likewise. In addition, the deviation requires a contractor whose property control system is disapproved to perform a physical inventory and report all loss, damage, or destruction of Government property prior to system reapproval.

Part 52—Solicitation Provisions and Contract Clauses

52.245–2 Government Property (Fixed-Price Contracts) (DEC 1989).

- Deviation authorizes the substitution of the following paragraph (c)(2) for paragraph (c)(2) of the basic clause. The substitute paragraph (c)(2) makes it clear that title to items of

Government property lost, damaged, or destroyed and replaced under the risk of loss provisions of the clause, vests in the Government:

(c)(2) All Government-furnished property, property acquired by the Contractor, or all property replaced by the Contractor under the risk of loss provisions of this clause, title to which vests in the Government under this paragraph (collectively referred to as ''Government property''), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

52.245–2 Government Property (Fixed Price Contracts) (Alternate I) (APR 1984).

• Deviation authorizes substitution of ''Limited risk of loss'' for the title of paragraph (g), and substitution of the following subparagraph (g)(2), which requires contractors to assume the risk of, and be responsible for, any loss, damage, or destruction of low value property, with the exception of reasonable wear and tear:

(g)(2) The Contractor assumes the risk of and shall be responsible for, any loss or destruction of, or damage to low value property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in subparagraphs (3) and (4) below.

• Deviation authorizes substitution of the following subparagraph (g)(6), which allows contractors to report loss, damage, or destruction of items of low value property at contract termination or completion:

(g)(6) Upon loss or destruction of, or damage to, Government property provided under this contract, (with the exception of low value property for which loss, damage, or destruction is reported at contract termination or completion), the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer as statement of—

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

• Deviation authorizes substitution of the following subparagraph (g)(8), which makes the cost of insurance due to assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205–19:

(g)(8) The Contractor represents that it is not including in the price and agrees it will not hereafter include in any price to the Government any charge or reserve for insurance (including any self-insurance fund or reserve) covering loss or destruction of, or damage to, Government property, except:

(i) to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract; or

(ii) low value property.

52.245–5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).

• Deviation authorizes substitution of the following paragraphs (c)(2) and (c)(3), which clarify that title to items of government property lost, damaged, or destroyed and replaced under the risk of loss provisions of the clause vests in the government:

(c)(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract or for which the Contractor is responsible to replace under the risk of loss provisions of this clause shall pass to and vest in the Government upon the vendor's delivery of such property.

(c)(3) Title to all other property, the cost of which is reimbursable to the Contractor, or for which the Contractor is responsible to replace under the risk of loss provisions of this clause shall pass to and vest in the Government upon—

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

• Deviation authorizes substitution of ''Risk of loss'' for the title of paragraph (g), and substitution of the following subparagraph (g)(1), which requires contractors to assume the risk of, and be responsible for, any loss, damage, or destruction of low value property, with the exception of reasonable wear and tear:

(g) (1) The Contractor assumes the risk of, shall be responsible for, and shall not be entitled to reimbursement as an allowable cost for any loss or destruction of, or damage to low value property upon its delivery to the contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this Contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

• Deviation authorizes substitution of the following subparagraph (g)(5), which allows contractors to report loss, damage, or destruction of items of low value property at contract termination or completion:

(g)(5) Upon loss or destruction of, or damage to, Government property provided under this contract, with the exception of low value property for which loss, damage, or destruction is reported at contract termination or completion, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of—

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

• Deviation authorizes substitution of the following subparagraph (g)(7), which makes the cost of insurance due to DoD contractors' assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205–19:

(g)(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except:

(i) to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract; or

(ii) low value property.

52.245–7 Government Property (Consolidated Facilities) (APR 1984).

• Deviation authorizes substitution of the following subparagraphs (d)(2) and (d)(4), which clarify that title to items of Government property lost, damaged, or destroyed, and replaced under the risk of loss provisions of this clause vests in the Government:

(d)(2) Title to all facilities and components shall pass to and vest in the Government upon delivery by the vendor of all such items purchased by the Contractor for which it is entitled to be reimbursed as a direct item of cost under this contract or for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245–8, Liability for the Facilities.

(d)(4) Title to other property, the cost of which is reimbursable to the Contractor under this contract or for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245–8, Liability for the Facilities, shall pass to and vest in the Government upon——

(i) Issuance of the property for use in performing this contract;

(ii) Commencement of processing or use of the property in performing this contract; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

52.245–8 Liability for the Facilities (APR 1984).

• Deviation authorizes substitution of the following paragraph (b), which requires contractors to assume risk of, and be responsible for, any loss, damage, or destruction of low value property, except for reasonable wear and tear:

(b) The Contractor assumes the risk of, shall be responsible for, and shall not be entitled to reimbursement as an allowable cost for any loss or destruction of, or damage to low value property upon its delivery to the contractor or upon passage of title to the Government as specified in the clause at FAR 52.245–7, Government Property (Consolidated Facilities), FAR 52.245–10, Government Property (Facilities Acquisition) or FAR 52.245–11, Government Property (Facilities Use). However, the Contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for any loss or destruction of, or damage to, the facilities, or for expenses incidental to such loss, destruction, or damage, except as provided in this clause.

• Deviation authorizes substitution of the following paragraph (f), which makes the cost of insurance due to assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205–19:

(f) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include in the price or cost under any contract with the Government the cost of insurance (including self-insurance) against any form of loss, destruction, or damage to the facilities. However, the Contractor may include the price or cost of such insurance against any form of loss, destruction, or damage to low value property. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances) as the Contracting Officer shall require or approve. Such insurance shall provide for 30 days advance notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. A certificate of insurance or a certified copy of such insurance shall be deposited promptly with the Contracting Officer. The Contractor shall, not less than 30 days before the expiration of such insurance, deliver to the Contracting Officer a certificate of insurance or a certified copy of each renewal policy. The insurance shall be in the name of the United States of America (Agency Name), the Contractor, and such other interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows: Any loss under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the office designated by the Contracting Officer.

• Deviation authorizes substitution of the following introductory text for paragraph (g), which allows contractors to report loss, damage, or destruction of items of low value property only at contract termination or completion:

(g) With the exception of low value property for which the loss, damage, or destruction is required to be reported at contract termination or completion, when there is any loss or destruction of, or damage to, the facilities——

52.245–11 Government Property (Facilities Use) (APR 1984).

• Deviation authorizes insertion of the following new subparagraph (c)(2), which clarifies that title to items of Government property lost, damaged, or destroyed, and replaced under the risk of loss provisions of this clause vests in the Government. The deviation also authorizes substitution of the numbering of the existing subparagraphs (c)(2), (c)(3), and (c)(4) as (c)(3), (c)(4), and (c)(5), respectively:

(c)(2) Title to facilities for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245–8, Liability for the Facilities, shall pass to and vest in the Government upon the vendor's delivery of such facilities. Title to all other facilities for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245–8 shall pass to an vest in the Government upon——

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

List of Subjects in 48 CFR Parts 45 and 52

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 95–7340 Filed 3–24–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[I.D. 032095B]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 4

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils have submitted Amendment 4 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before May 18, 1995.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 4 and supporting documents should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609–2486, FAX: 813–225–7015, or to the South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, SC 29407–4699, FAX: 803–769–4520.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared amendment to a fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an amendment, immediately publish a notice that the amendment is available for public review and comment. NMFS will consider public comment in determining approvability of the amendment.

Amendment 4 would allow the harvest of spiny lobster year-round and establish a daily bag or possession limit of two spiny lobster per person in the exclusive economic zone off North Carolina, South Carolina, and Georgia.

Proposed regulations to implement Amendment 4 are scheduled for publication within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 21, 1995.

David S. Crestin,

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

[FR Doc. 95–7393 Filed 3–22–95; 10:57 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 58

Monday, March 27, 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

Agricultural Marketing Service

[TM–94–00–4]

Procedure To Submit Names of Substances for Evaluation for Inclusion in the National List To Be Included in the National Organic Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Organic Foods Production Act of 1990, as amended (Act) (7 U.S.C. 6501 *et. seq.*), requires the establishment of a national organic production program for producers and handlers of agricultural products that have been produced using organic methods. The Act requires the Secretary of Agriculture (Secretary) to establish a National List of approved synthetic and prohibited natural substances that shall be included in the standards for organic production and handling. The National Organic Standards Board (NOSB), established by the Secretary, is seeking applications (petitions) for substances to be considered for inclusion on the National List. Petitions for substances for the National List should be submitted by the date set forth below.

DATES: Petitions should be received by close of business, May 26, 1995.

ADDRESSES: Petitions should be sent to Michael Hankin, Senior Marketing Specialist, USDA, Agricultural Marketing Service (AMS), Transportation and Marketing Division (TMD), National Organic Program (NOP), Room 2510 South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ted Rogers, Marketing Specialist, USDA, AMS, TMD, NOP, Room 2510 South Building, P.O. Box 96456, Washington, DC 20090–6456. Phone 202/205–7804. Fax 202/205–7808.

SUPPLEMENTARY INFORMATION: Organic production and handling involves more than just the application or addition of certain acceptable substances. The Act in section 2114 (7 U.S.C. 6513) requires producers and handlers seeking certification under the Act to submit an organic plan to the certifying agent and the State organic certification program (if applicable). An organic plan is a plan of management of an organic farming or handling operation that has been agreed to by the producer or handler and the certifying agent that addresses all aspects of agricultural production or handling described in the Act, including crop rotation and other practices required under the Act.

The Act in section 2112 (7 U.S.C. 6511) also requires producers and handlers of certified organic operations to maintain records concerning the production or handling of agricultural products sold or labeled as organically produced under the Act. These records are to include detailed histories of substances applied to fields or agricultural products, the names and addresses of persons who applied the substances, and the date, rate and method of application of such substances. Livestock records shall include, but not be limited to, the amount and source of medications administered and all feeds and feed supplements bought and fed (section 2110 of the Act (7 U.S.C. 6509)).

Further, the Act requires the Secretary to establish a National List of approved synthetic and prohibited natural substances that shall be included in the standards established for the organic production and handling of agricultural products to be sold or labeled as organically produced. The Act in section 2103(21) (7 U.S.C. 6502(21)) defines synthetic as a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

The Secretary in accordance with section 6518 of the Act (7 U.S.C. 6518) established a NOSB. The purpose of the NOSB is to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of implementing the Act.

The NOSB has initiated an evaluation of certain substances for inclusion on the National List. The NOSB's list of substances was generated from existing lists of established organic certification agencies and from input received from various people and organizations, including organic food processors and livestock producers. The substances currently being considered have been referred, in accordance with the Act, to technical advisors, selected by the NOSB, who will provide the NOSB with relevant scientific information. Also, in accordance with the Act, the NOSB will review information from the Environmental Protection Agency, the National Institute of Environmental Health Studies and other sources, as appropriate, in regards to the potential adverse human and environmental effects of a substance under consideration.

Specifically, the NOSB will be considering:

(1) The potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) The toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) The probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) The effect of the substance on human health;

(5) The effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) The alternatives to using the substance in terms of practices or other available materials; and

(7) Its compatibility with a system of sustainable agriculture.

The results of the evaluations by the technical advisors will be utilized by the NOSB in formulating its own evaluation reports. Both the NOSB evaluations and those of the technical advisors will be submitted to the Secretary along with the NOSB's recommended list of substances. The

Secretary will consider the recommendations of the NOSB. The Secretary will then determine what substances should be proposed to be included in the National List and will publish the proposed list for public comment prior to establishing the National List.

Once established, the National List may be amended. Proposed additions to the National List will also be published for public comment. Substances included in the National List will be reviewed by the NOSB and the Secretary at least every 5 years.

PURPOSE: The NOSB has made an extensive effort to review existing organic certification organizations' lists of substances approved or prohibited for organic production and handling. However, it is possible that one or more substances currently appearing on these existing lists have not been included in the groups of substances being evaluated at this time by the technical advisors persons and the NOSB. In addition, there may be other substances that should be evaluated for inclusion on the National List which may be determined to be compatible with the organic management system of agricultural production and processing.

This Notice establishes the procedure by which interested parties may petition the NOSB for the purpose of having a substance evaluated for recommendation to the Secretary for inclusion as a permitted synthetic or prohibited natural substance on the National List. Only the names of generic, single, active ingredients should be submitted; brand name products and formulations will not be evaluated or appear on the National List.

A request that a substance be evaluated, along with the following information, is specifically requested.

DETAILED INFORMATION:

Substance name (generic or common name);
Manufacturer's name, address, and phone, if different from the petitioner;
Area of intended use (crops, livestock, or handling/processing);
Specific use of the substance within the area of intended use;
Sources from which the substance is derived;
Description of the manufacturing or processing procedures; and
Summary of previous reviews by State or private organic certification programs.

REGULATORY INFORMATION (AS APPLICABLE):

EPA registration (include the registration number);
Food and Drug Administration registration;
State regulatory authority registration (include State registration number);
Chemical Abstract Service number or other product number; and
Labels of products that contain the petitioned substance.

SUPPLEMENTARY INFORMATION:

Detailed findings relevant to the substance's: detrimental chemical interactions with other materials used in organic farming; toxicity and persistence in the environment; environmental contamination resulting from its use and manufacture; effects on human health; and effects on soil organisms, crops and livestock;
Bibliographies;
Material Safety Data Sheet;
Information on the substance obtained from the National Institute of Environmental Health Studies; and
Information on whether all or part of any submission is believed to be confidential commercial information, and if so, what parts, and the basis for the belief it is confidential commercial information.

JUSTIFICATION: If petitioning for approval of a synthetic substance, state the reasons why the synthetic substance is necessary to the production, processing or handling of the organic product;

If the substance may be defined as synthetic, describe natural substances or alternative cultural methods that could be utilized in place of the synthetic substance; and summarize the beneficial effects to the environment, human health, or farm ecosystem that might support the use of the synthetic substance instead of the natural substances or alternative cultural methods.

If petitioning for prohibition of a natural substance, state the reasons why the natural substance should not be permitted in the production, processing or handling of the organic product.

The information requested for petitioning for a substance to be evaluated for inclusion on the National List should be completed as fully as possible. Persons submitting petitions may be requested to supply additional information.

Persons wishing to submit a petition should send the request and the information requested to: Michael Hankin, Senior Marketing Specialist, USDA, AMS, TMD, NOP, Room 2510 South Building, PO Box 96456, Washington, DC 20090–6456.

Authority: 7 U.S.C. 6501–6522.

Dated: March 21, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–7470 Filed 3–24–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

[Docket No. 94–119–4]

Boll Weevil Control Program; Availability of Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has confirmed its finding of no significant impact for a proposed program to eradicate the boll weevil in the Lower Rio Grande Valley of Texas. On January 30, 1995, we announced that we had prepared an environmental assessment and preliminary finding of no significant impact for the proposed eradication program. This confirmation of the finding of no significant impact follows our review of comments received regarding the proposed eradication program and the environmental assessment.

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

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Wickheiser, Writer-Editor, Environmental Analysis and Documentation, BBEP, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737–1228, (301) 734–8963. Copies of the final environmental assessment and finding of no significant impact are available in both English and Spanish and may be obtained by contacting Ms. Wickheiser or by calling Plant Protection and Quarantine's Central Region Office at (210) 504–4154.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) has proposed to cooperate in a boll weevil

eradication program in the Lower Rio Grande Valley of Texas in the counties of Brooks, Cameron, Hidalgo, Starr, and Willacy. The proposed Lower Rio Grand Valley program would relay on integrated control methods, including the use of chemicals, on cotton crops. Consistent with the National Environmental Policy Act (NEPA), Aphids had prepared an environmental assessment (EA) that analyzes the potential effects of the program's alternatives and actions on the quality of the human environment.

The EA considers the characteristics of the Lower Rio Grande Valley and focuses on the Potential effects of chemical pesticides. Because of the presence of communities in proximity to cotton fields, certain program modifications and some additional protective measures have been proposed and adopted. The potential presence of endangered and threatened species in close proximity to program activities prompted APHIS to also prepare a biological assessment of endangered and threatened species which contains special protective measures for those species. All of these protective measures are designed to reduce the potential for adverse effects.

Consistent with important policy objectives and principles of ''environmental justice'' as expressed in Executive Order No. 12898, APHIS held a public meeting on November 29, 1994, in Weslaco, TX (59 FR 56458, Docket No. 94–119–1), and two public hearings on February 16, 1995 (60 FR 5617–5618, Docket No. 94–119–2; 60 FR 7747–7748, Docket 94–119–3), also in Weslaco, TX. The purpose of the November 1994 public meeting was to provide a forum for community input on health and environmental issues associated with implementation of the proposed boll weevil eradication program. APHIS considered the public's perspectives in its development of the EA for the proposed program. The purpose of the February 1995 public hearings was to provide the public additional opportunities to express views or question agency officials regarding the proposed eradication program, the EA, and the preliminary finding of no significant impact.

APHIS made the EA and the preliminary finding of no significant impact available for public review for a period of 30 days. Subsequent to that period, APHIS considered the comments that it received from the public (private individuals, organizations, industry, and government) before making final revisions in the EA.

The APHISA decisionmaker has confirmed the preliminary finding that the proposed eradication program will not significantly impact the quality of the human environment, and determined that an environmental impact statement does not need to be prepared, and that the program may proceed.

We are mailing copies of the final EA and final finding of no significant impact (in English or Spanish, as applicable) to all persons who submitted comments or manifested an interest in the proposed eradication program.

Done in Washington, DC, this 22nd day of march 195.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–7526 Filed 3–24–95; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Willamette PIEC Advisory Committee will meet on Monday, April 17, 1995, at the Oregon Department of Transportation (ODOT) Building, 255 Capitol Street NE, Room #122, Salem, Oregon. The meeting will begin at 9:00 a.m. and continue until approximately 3:00 p.m. Agenda items to be covered include: (1) Orientation to the Advisory Committee process and the President's Forest Plan, (2) Introduction of members and expectations, (3) Operating guidelines and ground rules, (4) Status of PIEC activities and forecast of future activities, (5) Open public forum. All Willamette PIEC meetings are open to the public, and interested citizens are encouraged to attend. Written comments concerning the Advisory Committee's affairs can be submitted at the meeting. Oral comment can also be made during the public forum. Length of oral comments will be limited to the time allotted on the agenda.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Neal Forrester, Designated Federal Official, Willamette National Forest, 211 East Seventh Avenue, Eugene, Oregon; 503–465–6924.

Dated: March 21, 1995.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 95–7445 Filed 3–24–95; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:30 p.m. on Thursday, May 4, 1995, at the Anchorage Hilton, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the meeting is to plan and discuss civil rights issues in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rosalee T. Walker, 907–586–2873, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 17, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–7381 Filed 3–24–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Indiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will be held from 9:00 a.m. until 6:30 p.m., on Thursday, April 20, 1995, at the Indiana Convention Center and RCA Dome, 100 South Capitol Avenue, Indianapolis, Indiana 46225. The purpose of the meeting is to gather information on ''The Enforcement of Affirmative Action Compliance in Indiana under Executive Order 11246.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Hollis E.

Hughes, 219–232–8201, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 17, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–7382 Filed 3–24–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1995 Census Test – Integrated Coverage Measurement (Dual System Estimation Follow–up Questionnaire).

Form Number(s): DG–1301.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 525.

Number of Respondents: 2,100.

Avg Hours Per Response: 15 minutes.

Needs and Uses: Prompted by the need to improve estimation techniques during the decennial census, the Census Bureau has developed an Integrated Coverage Measurement (ICM) approach to be tested during the 1995 Census Test. The ICM approach will utilize a separately sampled group of blocks within the 1995 Census Test sites which will be independently listed and then interviewed. We will reconcile differences between the independent roster obtained during the ICM interviews and the census test results. This reconciliation will allow us to measure our coverage of persons in missed housing units and coverage of persons missed within housing units enumerated in the census test. Two techniques for estimating population coverage will be used in the 1995 Census Test –– Census Plus and Dual System Estimation (DSE). In DSE, a sample of persons counted in the ICM enumeration will be matched to regular census test results in the ICM sample blocks. Matching will be done internally. However, follow–up will be necessary in cases where the information we have is insufficient to determine a person's residence or match status.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 21, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–7490 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1995 Census Test – Coverage Study.

Form Number(s): DG–1300.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 160 hours.

Number of Respondents: 960.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The Census Bureau is testing many new methods during the 1995 Census Test to enhance coverage and contain costs for the Year 2000 Decennial Census. Four of those new methods are the ''Be counted'' forms, refined rostering questions, the use of administrative records to improve coverage (simulated use only; administrative records will not be used to add persons to the census test count), and the use of automated matching and unduplication software. In order to evaluate these methods, the Census Bureau plans to conduct a Coverage Study in two of the three 1995 Census Test sites –– Oakland, CA and Paterson, NJ. The Coverage Study is designed to measure the degree to which each method introduced or, in the case of administrative records, may introduce erroneous enumerations (EEs) into census test counts and to determine the demographic characteristics of the EEs. Enumerators will visit a sample of households to verify residency status and to collect demographic characteristics about persons that were either added or deleted from census test counts by means of one of the above methods.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 21, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–7489 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board

[Docket A(32b1)–2–95; Docket A(32b1)–3–95]

Foreign-Trade Zone 124—Grammercy, Louisiana, Subzone 124C, Star Enterprise, (Crude Oil Refinery Complex); Foreign-Trade Zone 116—Port Arthur, Texas, Subzone 116A, Star Enterprise (Crude Oil Refinery Complex) Requests for Modification of Restrictions

Requests have been submitted to the Foreign-Trade Zones Board (the Board) by the South Louisiana Port Commission, grantee of FTZ 124, and the Foreign-Trade Zone of Southeast Texas, grantee of FTZ 116, pursuant to § 400.32(b)(1) of the Board's regulations, for modification of the restrictions in FTZ Board Orders 667 and 668 authorizing Subzones 124C and 116A at the crude oil refinery complexes of Star Enterprise in Convent, Louisiana, and in Jefferson/Hardin Counties, Texas. The requests were formally filed on March 22, 1995.

The FTZ Board approved subzone status for the Star Enterprise refineries

in 1993 (Subzone 124C, Board Order 667, 59 FR 60, 1/3/94; and Subzone 116A, Board Order 668, 59 FR 61, 1/3/94). The approvals were subject to certain standard restrictions, including one that required the election of privileged foreign status on incoming foreign merchandise.

The companies are now requesting that this restriction be modified so that they would have the option available under the FTZ Act to choose non-privileged foreign (NPF) status on foreign refinery inputs used to produce certain petrochemical feedstocks and by-products including the following: benzene, toluene, xylenes, hydrocarbon mixtures, distillates/residual fuel oils, kerosene, naphthas, ethane, propane, butane, ethylene, propylene, butylene, butadiene, petroleum coke, asphalt, sulfur, and sulfuric acid.

The requests cite the FTZ Board's recent decision in the Amoco, Texas City, Texas case (Board Order 731, 60 FR 13118, 3/10/95) which authorized subzone status with the NPF option noted above. In the Amoco case, the Board concluded that the restriction that precluded this NPF option was not needed under current oil refinery industry circumstances.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [30 days from date of publication].

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: March 22, 1995

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–7497 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 031695C]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) and its Committees will hold public meetings on April 10–14, 1995, at the Holiday Inn Savannah-Midtown, 7100 Abercorn Expressway, Savannah, GA 31406; telephone: 1–800–255–8268 or 1–912–352–7100.

The Golden Crab Committee will meet on April 10, from 1:30 p.m. until 5:00 p.m., to discuss options for a Fishery Management Plan (FMP) and to approve FMP options for public hearings.

On April 11, from 8:30 a.m. until 5:00 p.m., the Scientific and Statistical Committee (SSC) will discuss the Wreckfish Assessment Report, the Mackerel Assessment Report and options for Amendment 8 to the Mackerel FMP. The SSC will review Golden Crab FMP options, Snapper-Grouper Amendment 8 options, Snapper-Grouper controlled access options and Shrimp Amendment 1. The SSC will discuss ways of managing fisheries in the face of declining data and research. It also will hear presentations on a definition of overfishing and a report on social impact assessments.

At 6:30 p.m., the Council will receive scoping comments on finfish bycatch in the shrimp fishery and on developing an FMP for the calico scallop fishery.

On April 12, from 8:30 a.m. until 12:00 noon, the Mackerel Committee will meet jointly with the Mackerel Advisory Panel (AP) to review the mackerel stock assessment and total allowable catch, quotas and bag limits options. It will discuss options for the next mackerel amendment (Amendment 8), including several options for trip limits, boundary allocations between the South Atlantic and the Gulf groups of king mackerel, commercial transfers of Spanish mackerel, entry regulations, net lengths, cobia management ranges and trip limits, adding African pompano to the management unit of the plan, and allowable gear regulations. The AP also will review other modifications concerning how the Councils manage the coastal pelagics fisheries, including changes to the framework procedure.

The Mackerel Committee will meet from 1:30 p.m. until 3:00 p.m., to set total allowable catch limits, quotas and bag limits. It will also choose items for Amendment 8 to go to public hearings.

The Shrimp Committee will meet from 3:00 p.m. until 5:30 p.m., for a briefing on the ad-hoc Rock Shrimp AP's progress in providing information and additional management options for consideration in Amendment 1. The Shrimp Committee will also discuss research efforts and options to address bycatch in the South Atlantic shrimp fishery.

On April 13, the AP Selection Committee will conduct a closed meeting to consider new appointments and reappointments to the Habitat and Environmental Protection AP, the Mackerel AP, the Shark AP, the Snapper-Grouper AP, the Spiny Lobster AP, the Sea Scallop AP and the Wreckfish AP. The SSC Selection Committee will also conduct a closed meeting to review the current SSC membership and to consider new appointments.

The full Council will convene on April 13, from 3:00 p.m. until 6:00 p.m., and April 14, from 8:30 a.m. until 12:00 noon, to hear Committee reports and recommendations. The Council will approve golden crab options for public hearings, mackerel total allowable catch, quota and bag limits, and Mackerel Draft Amendment 8 for public hearings. It will also make appointments to the APs and the SSC.

FOR FURTHER INFORMATION CONTACT: Sharon Coste, South Atlantic Fishery Management Council; One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: (803) 571–4366 or (803) 769–4520.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office at the above address by March 23, 1995.

Dated: March 20, 1995.

David S. Crestin,

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

[FR Doc. 95–7396 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Proposed Determination of New Expiration Dates of Certain Patents

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The Patent and Trademark Office (PTO) intends to determine and publish the new expiration dates of patents that, (1) are in force on June 8, 1995, (2) are entitled to a term of 20 years from filing, and (3) have received a term extension under either section 155 or 156 of title 35, United States Code. The PTO seeks written comments on its intended course of action.

DATES: Written comments must be submitted on or before April 26, 1995.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, DC 20231, Attention: H. Dieter Hoinkes, Office of Legislative and International Affairs, Crystal Park 2, Suite 902, or by facsimile to (703) 305–8885.

FOR FURTHER INFORMATION CONTACT: H. Dieter Hoinkes by telephone at (703) 305–9300, by facsimile at (703) 305–8885, or by mail marked to his attention addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Under section 156 of title 35, United States Code, patent term extensions are issued for eligible patents from the original expiration date of the patent. Since this provision was enacted in 1984, the PTO has issued 195 certificates of patent term extension in accordance with section 156. Under the Uruguay Round Agreements Act (''URAA''), Public Law 103–465, patents in force on June 8, 1995, are entitled to a patent term of 17 years from grant or 20 years from their earliest filing date, whichever is greater (see 35 U.S.C. 154(c)(1)). It is estimated that 94 patents whose terms were extended under section 156 are entitled to such a longer patent term.

On February 16, 1995, the PTO held a public hearing to elicit comments on what action it should take regarding patents that are entitled to a longer patent term under the URAA and that had previously been extended under section 156. (See 60 Fed. Reg. 3398 (Jan. 17, 1995)). After having considered all the comments, both written and oral, the PTO intends to publish the new expiration date of all patents that fall into the category mentioned above. The determination of the new expiration dates will be based on the following three considerations:

(1) A patent that would have expired under the original 17-year patent term before June 8, 1995, but that has received a patent term extension for a period beyond June 8, 1995, is a patent ''in force'' on June 8, 1995, even though the rights derived from that patent are circumscribed by section 156(b) of title 35.

(2) The ''original expiration date of the patent'' referred to in section 156(a) of title 35 is the date on which the patent would have expired if it had not been extended under section 156 to expire at a later date. Therefore, the ''original expiration date'' of the patents under consideration is the date on which the 20-year term from filing terminates.

(3) The extension already issued on the basis of the 17-year term will be added to the 20-year term, subject to the limitation imposed by section 156(c)(3) of title 35. That provision limits the period remaining in the term of an extended patent to fourteen years counted from the date on which the product under review received approval for commercial marketing by the relevant regulatory authority.

In addition, it should be noted that under the provisions of section 155 of title 35, 33 patents were extended, each for a period of five years, ten months and 17 days. Of the 32 patents in force on June 8, 1995, 20 are entitled to the longer term of 20 years from their relevant filing date. Their new expiration date, taking into account the term of extension provided by 35 U.S.C. 155, is also intended to be published.

Comments are invited on the course of action the PTO intends to undertake with respect to the new expiration dates of patents in the category discussed above. In issuing its final determination, the PTO will respond to significant comments received.

Dated: March 20, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–7388 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the People's Republic of China

March 21, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 28, 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 these limits, 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 limits for certain categories are being reduced for carryforward used during 1994.

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 21, 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 28, 1995, you are directed to amend the directive dated December 16, 1994 to reduce the limits for the following categories, 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:

Category	Adjusted twelve-month limit [1]
Sublevels in Group I	
340	786,355 dozen of which not more than 405,245 dozen shall be in Category 340–Z.[2]
617	15,431,268 square meters.
634	553,806 dozen.
636	505,085 dozen.
638/639	2,272,199 dozen.
643	463,884 numbers.
670–L [3]	14,276,734 kilograms.

Category	Adjusted twelve-month limit [1]
870	27,553,177 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.
[2] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.
[3] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–7423 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The New World Vistas Information Applications Panel of the USAF Scientific Advisory Board will meet on 25–26 April 1995 at the Air Intelligence Agency, San Antonio, TX from 8:00 a.m. to 5:00 p.m.

The purpose of this meeting will be to provide information applications assessments on issues relating to New World Vistas.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–7456 Filed 3–24–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army Corps of Engineers

Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Rancho Palos Verdes Shore Protection Feasibility Study

AGENCY: U.S. Army Corps of Engineers, Los Angeles District, DOD.

ACTION: Notice of intent.

SUMMARY: The Los Angeles District intents to prepare an Environmental Impact Statement (EIS) to support a cost-shared feasibility study with the City of Rancho Palos Verdes, California for shoreline protection along the City of Rancho Palos Verdes coastline. The purpose of the feasibility study is to evaluate alternatives for reducing erosion, sedimentation, and turbidity along the Rancho Palos Verdes coastline. A Corps-recommended plan would include construction of shore-protection measures to reduce ongoing damages to the shoreline from coastal erosion by storm, wave, and tidal events, and continued deposition of eroded materials in the adjacent marine environment. The EIS will analyze potential impacts of the recommended plan and a range of alternatives on the environment.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, Environmental Support Section, P.O. Box 2711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Mr. Rey Farve, Project Ecologist, (213) 894–5510, or Ms. Anna Zacher, Study Manager, (213) 894–2028.

SUPPLEMENTARY INFORMATION: The study area is located along the coastline of the Palos Verdes Peninsula in the City of Rancho Palos Verdes. The topography consists primarily of a shoreline backed by steep slopes below a pronounced sea cliff, and is also characterized by rocky headlands, and gravelly, narrow beaches.

Previous shoreline surveys indicate that the nearshore, in the recent past, has experienced significant accretion and a seaward advance of more than 150 feet. Since 1956, when a contemporary landslide began, the shoreline has been accredit and extended by earth movement into the surf zone. Thousands of tons of material have been washed away from the shoreline and deposited in the nearshore basin, offshore, or carried downcoast. As much as 30 inches of sediment have been deposited over rocky bottom areas which historically supported a rich and diverse intertidal and subtidal biological community near the toe of the landslide berm. Up to 6 inches of sediment have been measured, in certain areas, as far offshore as 300 feet.

Proposed Action and Alternatives

The Los Angeles District will investigate and evaluate all reasonable alternatives to address methods to reduce shore erosion, sedimentation, and turbidity along the Rancho Palos Verdes coastline. In addition to the NO ACTION alternative, the construction of structures such as revetments or gabions along the shoreline or breakwaters or dikes in the nearshore would be evaluated as to their feasibility as shore protection measures. It should be noted that the Corps will not analyze or address a solution to the landslide problem, and will not develop Corps position on whether the landslide is stabilizing, or is expected to stabilize, based on shore protection.

Scoping Process

The scoping process is on-going and has involved preliminary coordination with Federal, State, and local agencies. A public scoping meeting is scheduled at the Fred Hesse Community Park Building, 29301 Hawthorne Blvd., Rancho Palos Verdes, CA at 7:30 pm, April 26, 1995. The purpose of the meeting is to gather information from the general public or interested organizations about issues and concerns they would like to see addressed in the EIS. Comments may be delivered in writing or verbally at the meeting or sent in writing to the Los Angeles District at the address given above.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–7457 Filed 3–24–95; 8:45 am]

BILLING CODE 3710–KF–M

Department of the Navy

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Training Center, Orlando, FL—Herndon Annex

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Training Center, Herndon Annex, Orlando, FL, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson Real Estate Division, Southern, Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC

29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Captain Harry Smith, Base Transition Office, Naval Training Center, Orlando, FL 32813–5005, telephone (407) 646–5301.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Training Center, Orlando, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on April 29, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 13, 1994, the Naval Training Center Reuse Commission submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Training Center, Herndon Annex, Orlando, FL, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Training Center, Orlando, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Orlando Naval Training Center Reuse Commission. A cross section of community interests is represented on the committee. Day-to-day operations of the Commission are handled by Mr. Herb Smetheram, Executive Director. The address of the Commission is 400 South Orange Avenue, Orlando, FL 32801–3302, telephone (407)–246–3093 and facsimile (407) 246–3164.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Training Center, Herndon Annex, Orlando, FL, that were declared surplus to the federal government on April 29, 1994.

Land

Approximately 54 acres of improved and unimproved fee simple land at the Naval Training Center, Herndon Annex, Orlando, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the center closes in October, 1998, unless otherwise indicated. Property numbers are available on request.

—Warehouse/Administration (8 structures). Comments: Approx. 134,900 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Training Center, Herndon Annex, Orlando, FL, shall submit to said Commission a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the Commission shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Orlando the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 13, 1994.

Dated: March 20, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7417 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–FF–P

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Training Center, Orlando, FL—McCoy Annex

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Training Center, McCoy Annex, Orlando, FL, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Captain Harry Smith, Base Transition Office, Naval Training Center, Orlando, FL 32813–5005, telephone (407) 646–5301.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Training Center, Orlando, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on April 29, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which

authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 13, 1994, the Naval Training Center Reuse Commission submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Training Center, McCoy Annex, Orlando, FL, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Training Center, Orlando, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Orlando Naval Training Center Reuse Commission. A cross section of community interests is represented on the committee. Day-to-day operations of the Commission are handled by Mr. Herb Smetheram, Executive Director. The address of the Commission is 400 South Orange Avenue, Orlando, FL 32801–3302, telephone (407) 246–3093 and facsimile (407) 246–3164.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Training Center, McCoy Annex, Orlando, FL, that were declared surplus to the federal government on April 29, 1994.

Land

Approximately 838 acres of improved and unimproved fee simple land at the Naval Training Center, McCoy Annex, Orlando, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the center closes in October, 1998, unless otherwise indicated. Property numbers are available on request.

—Barracks/Support (6 structures). Comments: Approx. 62,600 square feet.
—Family Housing/Multiplex (53 structures). Comments: Approx. 452,800 square feet.
—Medical/Community Support (34 structures). Comments: Approx. 358,350 square feet.
—Operational/Administration (10 structures). Comments: Approx. 65,200 square feet.
—Maintenance/Motor Pool (11 structures). Comments: Approx. 36,000 square feet.
—Capehart Duplex Housing (359 structures). Comments: 2,500 square feet per unit on average.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Training Center, McCoy Annex, Orlando, FL, shall submit to said Commission a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the Commission shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Orlando the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 13, 1994.

Dated: March 20, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7418 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–FF–P

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Training Center, Orlando, FL—Area C

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the reuse commission that has been established to plan the reuse of the Naval Training Center, Area C, Orlando, FL, the surplus property that is located at that base closure site, and the timely election by the commission to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Captain Harry Smith, Base Transition Office, Naval Training Center, Orlando, FL 32813–5005, telephone (407) 646–5301.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Training Center, Orlando, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on April 29, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 13, 1994, the Naval Training Center Reuse Commission submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Training Center, Area C, Orlando, FL, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Training Center, Orlando, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Orlando Naval Training Center Reuse Commission. A cross section of community interests is represented on the committee. Day-to-day operations of the commission are handled by Mr. Herb Smetheram, Executive Director. The address of the commission is 400 South Orange Avenue, Orlando, FL 32801–3302, telephone (407) 246–3093 and facsimile (407) 246–3164.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Training Center, Area C, Orlando, FL, that were declared surplus to the federal government on April 29, 1994.

Land

Approximately 45 acres of improved and unimproved fee simple land at the Naval Training Center, Area C, Orlando, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the center closes in October, 1998, unless otherwise indicated. Property numbers are available on request.

—Administration/Support (3 structures). Comments: Approx. 58,000 square feet.

—Warehouse/Storage (18 structures). Comments: Approx. 138,000 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Training Center, Area C, Orlando, FL, shall submit to said commission a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the Commission shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Orlando the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 13, 1994.

Dated: March 20, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7419 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–FF–P

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Training Center, Orlando, FL—Main Station

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Training Center, Main Station, Orlando, FL, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Captain Harry Smith, Base Transition Office, Naval Training Center, Orlando, FL 32813–5005, telephone (407) 646–5301.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Training Center, Orlando, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on April 29, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure

sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 13, 1994, the Naval Training Center Reuse Commission submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Training Center, Main Station, Orlando, FL, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Training Center, Orlando, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Orlando Naval Training Center Reuse Commission. A cross section of community interests is represented on the Commission. Day-to-day operations of the Commission are handled by Mr. Herb Smetheram, Executive Director. The address of the Commission is 400 South Orange Avenue, Orlando, FL 32801–3302, telephone (407) 246–3093 and facsimile (407) 246–3164.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Training Center, Main Station, Orlando, FL, that were declared surplus to the federal government on April 29, 1994.

Land

Approximately 1,184 acres of improved and unimproved fee simple land at the Naval Training Center, Main Station, Orlando, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the center closes in October, 1998, unless otherwise indicated. Property numbers are available on request.

—Barracks (72 structures). Comments: Approx. 2,703,400 square feet.

—Housing/Housing Support (5 structures). Comments: Approx. 11,290 square feet.

—Personnel/Community Support (75 structures). Comments: Approx. 581,000 square feet.

—Administration (22 structures). Comments: Approx. 227,700 square feet.

—Operational Training/Fuel (20 structures). Comments: Approx. 1,113,000 square feet.

—Maintenance (10 structures). Comments: Approx. 66,000 square feet.

—Storage/Medical (6 structures). Comments: Approx. 114,000 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Training Center, Main Station, Orlando, FL, shall submit to said Commission a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the Commission shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Orlando the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 13, 1994.

Dated: March 20, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7420 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Reserve Center, Coconut Grove, Miami, FL

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Coconut Grove, Miami, FL, the surplus property that is located at that closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact one of the above.

SUPPLEMENTARY INFORMATION: In 1991, the Naval Reserve Center, Coconut Grove, Miami, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on June 7, 1991, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the

property by homeless assistance providers and non-federal public agencies. On December 12, 1994, the City of Miami, FL, submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the Federal Register publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Coconut Grove, Miami, FL, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Coconut Grove, Miami, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Miami, FL. Day-to-day operations of the commission are handled by Mr. Cesar H. Odio, City Manager, P.O. Box 330708, Miami, FL 33233–0708, telephone (305) 250–5400 and facsimile (305) 285–1835.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Reserve Center, Coconut Grove, Miami, FL, that were declared surplus to the federal government on June 7, 1991.

Land

Approximately 3.27 acres of fee simple land at the Naval Reserve Center, Coconut Grove, Miami, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes. Property numbers are available on request.

—Administrative building (one structure). Comments: Approx. 12,330 square feet.

—Garage (one structure). Comments: Approx. 6,300 square feet with an attached paint storage shed of approx. 1,956 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Coconut Grove, Miami, FL, shall submit to the City of Miami, FL, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the City of Miami shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Miami, FL, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 12, 1994.

Dated: March 20, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7421 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–FF–P

Chief of Naval Operations (CNO) Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet April 19–20, 1995 from 9:00 a.m. to 4:00 p.m. on each day at 4401 Ford Avenue, Alexandria, Virginia. These sessions will be closed to the public.

The purpose of this meeting is to conduct discussions on strategies for an uncertain future to include information warfare, intelligence community reorganization, reserve structure and mobilization, and asymmetric warfare. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Timothy J. Galpin, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

March 21, 1995.

M.D. Schetzsle,

Lt, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–7422 Filed 3–24–95; 8:45 am]

BILLING CODE 3810–AE–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by March 24, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Request for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement

for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: March 21, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited.
Title: Tribal Divisions of Education School Reform Program.
Frequency: Annually.
Affected Public: State, Local or Tribal Governments.
Reporting Burden:
Responses: 50.
Burden Hours: 2,000.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This program assists tribal divisions of education in coordinating school reform plans developed for schools funded by the Bureau of Indian Affairs (BIA) and those plan developed for public schools. The Department will use the information to determine which applicants are best qualified to receive Federal funds under the law.
Additional Information: Clearance for this information collection is requested for March 24, 1995. An expedited review is requested in order to quickly distribute the application notice to potential applicants.

[FR Doc. 95–7413 Filed 3–24–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) was requested by March 15, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Sherril, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type or review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (60 Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review was requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: March 21, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited.
Title: Goals 2000 Parent Information and Resource Centers.
Frequency: Annually.
Affected Public: Not for profit institutions; State, Local or Tribal Government.
Reporting Burden:
Response: 300.
Burden Hours: 14,400.
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.
Abstract: Title IV of the Goals 2000: Educate America Act, public Law 103–227 authorizes the establishment of parent information and resource centers to provide training, information, and support to parents of children aged birth through five, and children enrolled in elementary and secondary schools.
Additional Information: Clearance for this information collection was requested for March 15, 1995 so that applications could be developed and submitted prior to the end of the school year.

[FR Doc. 95–7414 Filed 3–24–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER89–401–021, et al.]

Citizens Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

March 20, 1995.

Take notice that the following filings have been made with the Commission:

1. Citizens Power & Light Co.

[Docket No. ER89–401–021]

Take notice that on February 27, 1995, Citizens Power & Light Company (Citizens) tendered for filing a letter informing the Commission that during the fourth calendar year quarter, Citizens did not enter into any agreements pursuant to which Citizens bought or sold electric power for resale.

2. Heartland Energy Services, Inc.

[Docket No. ER94–108–002]

Take notice that on March 3, 1995, Heartland Energy Services, Inc. tendered for filing with the Federal

Energy Regulatory Commission information relating to the above docket.

3. Puget Sound Power & Light Co.

[Docket No. ER94–1559–000]

Take notice that on March 14, 1995, Puget Sound Power & Light Company (Puget) tendered for filing supplemental information to its August 16, 1994 filing in the above referenced docket.

4. City of Concord, North Carolina, Town of Dallas, North Carolina, Publics Works Commission of the Town of Due West, South Carolina, Public Works Department of the Town of Forest City, North Carolina, Public Works Commissioners of Greenwood, South Carolina, City of Kings Mountain, North Carolina, City of Prosperity, South Carolina, and Seneca Light and Water Board of Seneca, South Carolina, Complainants v. Duke Power Company, Respondent

[Docket No. EL95–31–000]

Take notice that on March 10, 1995, the City of Concord, North Carolina, the Town of Dallas, North Carolina, the Public Works Commission of the Town of Due West, South Carolina, the Public Works Department of the Town of Forest City, North Carolina, City of Kings Mountain, North Carolina, the Public Works Commissioners of Greenwood, South Carolina, the Town of Prosperity, South Carolina, and the Seneca Light and Water Board of Seneca, South Carolina (collectively the Municipals), tendered for filing complaint against Duke Power Company (Duke). The Municipals request an investigation to determine whether the rates charged by Duke to its resale Schedule 10 customers are unjust, unreasonable and unduly discriminatory, and, if so, to establish just, reasonable and non-discriminatory rates. The Municipals request that the Commission establish just and reasonable rates using coincident peak demands, to be applied prospectively from the conclusion of the proceeding, and just and reasonable rates using non-coincident peak demands, for the purpose of measuring refunds to which the Municipals may be entitled. The Municipals ask the Commission to establish a refund effective date not later than sixty days following the filing of the complaint. Also, the Municipals request that a rider like Duke's Rider EC Economic Development be made available to the Municipals as a pass-through.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Co.

[Docket No. ER95–202–000]

Take notice that on March 3, 1995, Southern California Edison Company (Edison) tendered for filing a supplement to its November 18, 1994 filing of the Short Term Power Sale Agreement (Short Term Power Sale Agreement (Short Term PSA) between the City of Anaheim and Edison. The supplement placed a limit on the total revenue Edison collects in any calendar month for Capacity and Associated Energy under the Short Term PSA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Co.

[Docket No. ER95–251–000]

Take notice that Wisconsin Electric Power Company (WEP) tendered for filing on March 10, 1995 an amendment in the above-referenced docket.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Co.

[Docket No. ER95–511–000]

Take notice that on March 9, 1995, Southern California Edison Company tendered for filing a Notice of Withdrawal of the filing filed on January 27, 1995 in the above-referenced docket.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Missouri Public Service Co.

[Docket No. ER95–652–000]

Take notice that on February 27, 1995, Missouri Public Service Company tendered for filing a Service Agreement under its power sales tariff with Intercoast Power Marketing Company.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Blackstone Valley Electric Co.

[Docket No. ER95–682–000]

Take notice that on March 14, 1995, Blackstone Valley Electric Company tendered for filing supplemental information to its March 2, 1995 filing in the above-referenced docket.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Louisiana Gas and Electric Co.

[Docket No. ER95–694–000]

Take notice that on March 3, 1995, Louisiana Gas and Electric Company tendered for filing a Notice of Cancellation of all service agreements executed under Rate GSS to date with NORAM Energy.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corp.

[Docket No. ER95–700–000]

Take notice that on March 6, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and Citizens Power & Light Corporation (Citizens). This Service Agreement specifies that Citizens has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and Citizens to enter into separately scheduled transactions under which NMPC will sell to Citizens capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of January 30, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Citizens.

Comment date: April 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corp.

[Docket No. ER95–716–000]

Take notice that on March 9, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Burlington Electric Department (Burlington) dated March 6, 1995 providing for short term firm transmission services to Burlington. Niagara Mohawk requests an effective date of March 18, 1995.

Copies of this filing were served upon Burlington and the New York State Public Service Commission.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Carolina Power & Light Co.

[Docket No. ER95–717–000]

Take notice that on March 9, 1995, Carolina Power & Light Company (Carolina) tendered for filing separate Service Agreements executed between Carolina and the following Eligible Entities, Rainbow Energy Marketing Corporation; Louis Dreyfus Electric Power Inc.; Enron Power Marketing, Inc.; LG&E Power Marketing, Inc., and Electric Clearinghouse, Inc. Service to each Eligible Entity will be in accordance with the term and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER95–718–000]

Take notice that on March 9, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Termination for PacifiCorp Rate Schedule FERC No. 344.

Copies of this filing were supplied to Bonneville Power Administration, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER95–719–000]

Take notice that on March 9, 1995, PacifiCorp, tendered for filing, in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Exhibit A (Revision No. 18, effective September 30, 1994) to the February 25, 1976 Transmission Agreement (PacifiCorp Rate Schedule FERC No. 123) between PacifiCorp and Tri-State Generation and Transmission Association, Inc. (Tri-State).

Exhibit A specifies the projected maximum integrated demand in kilowatts which Tri-State desires to have transmitted to its respective points of delivery by PacifiCorp.

PacifiCorp respectfully requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and an effective date of September 30, 1994 be assigned to Exhibit A, this date being consistent with the Effective date shown on Exhibit A.

Copies of this filing were supplied to Tri-State, the Wyoming Public Service Commission, the Public Utility Commission of Oregon and the Washington Utilities and Transmission Commission.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Pennsylvania Power & Light Co.

[Docket No. ER95–720–000]

Take notice that on March 9, 1995, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission (the Commission) a Power Supply Agreement (Agreement) between PP&L and Allegheny Electric Cooperative, Inc. (AEC) dated February 13, 1995. The Agreement provides for the sale by PP&L to AEC of electrical energy on a firm basis at a new delivery point. PP&L states that the rates included in the Agreement are identical to the rates approved by the Commission in PP&L's last wholesale rate case in Docket No. ER94–945–000.

PP&L has requested the Agreement be effective sixty days following the filing date. PP&L has requested waiver of 18 CFR 35.12 to permit it to adopt by reference in this filing information previously submitted to the Commission in ER94–945–000.

PP&L states that a copy of its filing was provided to AEC and to the Pennsylvania Public Utility Commission.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Southern California Edison Co.

[Docket No. ER95–723–000]

Take notice that on March 10, 1995, Southern California Edison Company (Edison) tendered for filing the following environmental energy storage agreement:

Environmental Energy Storage Agreement executed by the United States of America Department of Energy acting by and through the Bonneville Power Administration and Southern California Edison

The Agreement provides the terms and conditions whereby Edison stores energy received from Bonneville during the period from April 16 through July 31 for a given calendar year and returns an equal amount of energy to Bonneville during the immediately following period of November 15 through March 31.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7403 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. QF88–292–003 and EL95–29–000]

Kamine/Besicorp Allegany L.P.; Errata Notice

March 21, 1995.

In the Notice of Amendment to Filing, issued March 13, 1995, (60 FR 14742, March 20, 1995), change the date for filing protests and interventions from March 28, 1995 to April 3, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7405 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–207–000]

Equitrans, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 21, 1995.

Take notice that on March 17, 1995, Equitrans, Inc. (Equitran), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following proposed tariff sheet, with a proposed effective date of April 15, 1994:

Original Sheet No. 9A

Equitrans states that the purpose of the filing is to flow through to its former bundled sales customers the refunds

which Equitrans has received from upstream pipelines and suppliers for gas purchase and transportation activity which occurred prior to its implementation of Order No. 636. The filing proposes to flow through $4,745,056.88 of Account No. 191 refunds and billing adjustments, including carrying charges, to Equitrans' former bundled sales customers.

Equitrans states that this amount corresponds to refunds which Equitrans has received from upstream pipelines and suppliers since June 1, 1994, when Equitrans filed to to direct bill its former Rate Schedule PLS customers for the positive balance in its Account No. 191 upon termination of its PGA. The refunds relate to purchase activity which took place under Equitrans' former PGA through August 31, 1993. Upon acceptance of the tariff sheet, Equitrans states that it will flow through refunds on a lump-sum basis to its former sales customers under Rate Schedule PLS.

Any person desiring to be heard or protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 28, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7409 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA95–3–000]

Ferguson-Burleson County Gas Gathering System, J.V.; Notice of Petition for Adjustment

March 21, 1995.

Take notice that on February 1, 1995, Ferguson-Burleson County Gas Gathering System, J.V. (Ferguson-Burleson), filed pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(1)(ii) of the Commission's Regulations to permit Ferguson-Burleson to use its tariff on file with the Railroad Commission of Texas (TRC) for services performed pursuant to NGPA Section 311.

In support of its petition, Ferguson-Burleson states that it is an intrastate pipeline operating in the State of Texas, and is a gas utility subject to the jurisdiction of the TRC. Ferguson-Burleson acquired gas pipeline facilities formerly owned by Winnie Pipeline Company. Ferguson-Burleson's gathering and transportation rates are subject to regulation by the TRC. Ferguson-Burleson anticipates providing Section 311 transportation and storage service on behalf of interstate pipeline companies or local distribution companies served by interstate pipeline companies for a charge not to exceed the transportation rate on file with the TRC, which is currently $0.15 per MMBtu.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7411 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–131–001]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 21, 1995.

Take notice that on March 16, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective February 1, 1995 and March 1, 1995:

Substitute Sixth Revised Sheet No. 60
Substitute Seventh Revised Sheet No. 60

Northern if filing to correct a typographical error on one of the MID rates. The Rate for firm transportation from Receipt District 14 to Delivery District 17 (APR–OCT) was misstated and should be reduced as follows:

—On Substitute Sixth Revised Sheet No. 60: From 5.23 to 4.88 cents per MMBtu
—On Substitute Seventh Revised Sheet No. 60: From 4.41 to 4.06 cents per MMBtu

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before March 28, 1995. Protests will be considered by the Commission in determining the appropriate proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-7406 Filed 3-24-95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–185–001]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 21, 1995.

Take notice that on March 16, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective April 1, 1995:

Substitute Eighth Revised Sheet No. 60

Northern states that it is filing to correct a typographical error on one of the MID rates. The Rate for firm transportation from Receipt District 14 to Delivery District 17 (APR–OCT) was misstated and should be reduced on Substitute Eighth Revised Sheet No. 60 from 5.83 cents per MMBtu to 5.22 cents per MMBtu.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before March 28, 1995. Protests will be considered by the Commission in determining the appropriate proceeding. Copies of this filing are on

file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7408 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–145–001]

Northwest Pipeline Corporation; Notice of Proposed Change in FERC Gas Tariff

March 21, 1995.

Take notice that on March 16, 1995, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Original Sheet No. 125, with a proposed effective to coincide with the same effective date ultimately given to tariff sheets previously filed in this docket.

Northwest states that the purpose of this filing is to comply with the Commission's March 1, 1995, Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Technical Conference (Order). The Order was issued in response to Northwest's January 30, 1995, filing wherein Northwest proposed to implement tariff provisions that would allow Northwest to sell (i) gas that becomes the property of Northwest pursuant to the provisions of terminated transportation or storage agreements or due to tariff provisions relating to interruptible storage or shipper imbalances; and (ii) other de minimis volumes of gas as the need arises.

Northwest states that it has revised ''Section 3. Rates and Charges'' of Rate Schedule S–1 on Sheet No. 125 by removing the phrase ''and such rates and charges shall not be subject to the jurisdiction of the Commission.'' Northwest states that it also responded in the instant filing to the intervenors' concerns.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers, upon all intervenors in Docket No. RP95–145–000 and upon interested 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 § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before March 28, 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. 95–7407 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–65–001]

Transwestern Pipeline Co.; Notice of Compliance Filing

March 21, 1995.

Take notice that on March 10, 1995, Transwestern Pipeline Company (Transwestern), tendered for filing as part of it FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Effective January 5, 1995

Seventh Revised Sheet No. 2

and as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets:

Effective January 5, 1995,

Eighteenth Revised Sheet No. 1
First Revised Sheet No. 88

On January 5, 1995, the Commission issued an order in this proceeding granting Transwestern and Natural Gas Pipeline Company of America (NGPL) abandonment authorization under Section 7(b) of the Natural Gas Act (January 5 Order). The January 5 Order authorized the abandonment of Transwestern's and NGPL's natural gas exchange service under Transwestern's Rate Schedule X–7 and NGPL's Rate Schedule X–18, subject to certain conditions including Transwestern making the instant filing. Pursuant to Ordering Paragraph (A), Transwestern herein submits the above referenced tariff sheets to reflect the abandonment of the certificated exchange service under Transwestern's Rate Schedule X–7 set forth in Transwestern's FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2.

Transwestern respectfully requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary, specifically, but not limited to, Sections 154.22 and 154.63 of the Commission's Regulations, so as to permit the tariff sheets submitted herewith to become effective January 5, 1995, which is the effective date of the Commission's Order issued in Docket No. CP95–65–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before March 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7404 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–210–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 21, 1995.

Take notice that on March 17, 1995, Transwestern Pipeline Company (Transwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of April 17, 1995:

5th Revised Sheet No. 52

Transwestern states that the above-referenced tariff sheet is being filed to revise Transwestern's quality specifications regarding the percentage of carbon dioxide that will be allowable for gas delivered into its system. Transwestern requests an effective date of April 17, 1995, for this tariff sheet. Specifically, Transwestern proposes to revise § 2.1 (E) and (F) of the General Terms and Conditions of its FERC Gas Tariff that currently provide that gas delivered into its system must contain no more than three percent of carbon dioxide and no more than a combined total of four percent of carbon dioxide plus nitrogen.

Transwestern proposes to modify its tariff language to reduce the percentage of carbon dioxide from three percent to two percent and reduce the percentage of carbon dioxide plus nitrogen from four percent to three percent. Transwestern seeks these modifications in an effort to conform its quality specifications for the allowable percentage of carbon dioxide with those percentages of pipelines upstream and downstream of Transwestern's system as well as to conform with the gas quality specifications of pipelines with

which it competes in providing transportation services. Such modifications will also result in safer and more efficient pipeline operations on Transwestern's system.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 28, 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. 95–7410 Filed 3–24–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5/78–6]

Transfer of Confidential Business Information to EPA Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of confidential business information to agency contractors and request for comments.

SUMMARY: EPA will transfer to its contractors, A.T. Kearney, Inc., PRC, Inc., and SAIC, Inc. confidential business information (CBI) which has been submitted to EPA under RCRA statutes administered by the Agency. Also, the Agency will transfer CBI to the following subcontractors of these firms: Metcalf & Eddy, Booz Allen & Hamilton, TRC Environmental Corp., Midwest Research Institute, Cadmus Group, DPRA, Environ, META, Vigyan, Franklin Associates, Sigma Research Corporation, Becker Associates, Eastern Research Group, BAT Associates, Inc., CCJM, Hydrogeologic, Inc., ENSECO, CDM Federal Programs Corp., ICF, Resource Applications, Inc., Dynamac, Quanterra Environmental Services, C.C. Johnson, Malhotra, RAI, ISSI, Fifer Environmental and InfoPro. Also, A.T. Kearney will be a subcontractor to SAIC and SAIC will be a subcontractor to A.T. Kearney under their respective contracts.

DATES: Transfer of confidential business data will occur no sooner than (insert 10 days from date of publication).

FOR FURTHER INFORMATION CONTACT: John Fogarty, Office of Solid Waste (5305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202–260–7922.

SUPPLEMENTARY INFORMATION: Under EPA Contract numbers 68–W4–0004, 68–W4–0005, 68–W4–0006, 68–W4–0007 and 68–W4–0013, A.T. Kearney, PRC, SAIC, and their subcontractors, will assist the EPA Regional Offices (I–X) by providing technical assistance and services which support EPA's RCRA enforcement and permitting activities, such as sampling, corrective action oversight, technical review of documents, and special studies.

Pursuant to EPA regulations 40 CFR, Part 2, Subpart B, EPA has determined that the above contractors require access to RCRA CBI to perform the work required under these contracts. EPA is submitting this notice to inform all submitters of CBI that EPA will transfer to these firms, on a need-to-know basis, CBI collected under the authority of RCRA. Upon completing their review of materials submitted, the above contractors will return all such materials to EPA.

Prior to the transfer of any RCRA CBI, A.T. Kearney, PRC and SAIC, and their subcontractors will receive authorization for access to RCRA CBI under the EPA ''Contractor Requirements for the Control and Security of RCRA Confidential Business Information Security Manual.'' EPA will review and approve the security plans of the contractors and sub-contractors. Contractor and sub-contractor personnel will sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to CBI.

Dated: March 8, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–7494 Filed 3–24–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5178–4]

Science Advisory Board Notification of Public Advisory Committee Meeting, Open Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that various Committees and Subcommittees of the Science Advisory Board will meet as follows:

(1) *The Science Advisory Board's (SAB's) Executive Committee*, will conduct a meeting on Tuesday and Wednesday, April 10–11, 1995. The meeting will be held in the Administrator's Conference Room 1103 West Tower at the Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. It will begin at 8:30 a.m. and adjourn not later than 5:00 p.m. on each day.

At this meeting the Executive Committee will receive updates from each of its 10 standing committees, as well as its special subcommittees.

The EC will also examine procedural issues. Tim Fields, Deputy Assistant Administrator for the office of Solid Waste and Emergency Response, will discuss the experience of SAB's being involved in site-specific cases. Representatives of the Agency's Management and Operations staff will report on their findings in a study of the operation of the Office of the SAB.

Additional topics on the agenda include status reports on the Agency's ecological risk assessment guidelines and on the Agency's development of new methodology for economic analysis. The Deputy Administrator will also seek the EC's views on the Presidential-initiated review of Agency's regulations. Representatives of various offices will provide background information on the emerging state of environmental protection at the state, national, and international levels.

The meeting is open to the public. Any member of the public wishing further information concerning the meeting or who wishes to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee (1400), U.S. Environmental Protection Agency, Washington, DC 20460 at 202–260–4126; FAX 202–260–9232; and INTERNET barnes.don@epamail.epa.gov. Limited unreserved seating will be available at the meeting.

(2) *The Acid Deposition Effects Subcommittee* of the Ecological Processes and Effects Committee (EPEC) will meet on April 12–13, 1995, at the Quality Hotel Capitol Hill, 415 New Jersey Avenue, N.W., Washington, DC 20001, telephone (202) 638–1616. The purpose of the meeting is to review the Agency's draft Acid Deposition Standard Feasibility Study Report to Congress. The Subcommittee will meet 8:30 am to 5:00 pm on April 12 and from 8:00 am to 10:00 am on April 13.

The meeting will be open to the public, but seating will be on a first-come basis.

Background: The Report to Congress was mandated by Title IV of the Clean Air Act Amendments of 1990 and is intended to address the feasibility and effectiveness of an acid deposition standard to protect sensitive and critically sensitive aquatic and terrestrial resources. The report, which has been released by the Agency for public comment (**Federal Register**, February 10, 1995, vol. 60, no. 28, p. 7965; comment period subsequently extended to April 1), projects acid deposition and effects under varying scenarios using the Regional Acid Deposition Model (RADM) and the Model for Acidification of Groundwater in Catchments (MAGIC). Effects from both nitrogen and sulfur deposition are considered. The Charge to the Subcommittee includes the following questions: (1) Have the models been applied in a credible manner and/or within the bounds of applicability for the scientific analyses and assessments in the report? (2) Have the modeling results been appropriately integrated? In what ways might the integration be improved? (3) Are the conclusions drawn in the study consistent with the state of the science and the state of modeling? (4) What conclusions are insupportable or weak? For what reasons? How might they be improved? (5) Are there important conclusions from prior modeling reports that should be included in the report? (6) Have the scientific uncertainties associated with the conclusions drawn in the study been adequately characterized? If not, what approaches are suggested?

Additional Information: To obtain a meeting agenda, contact Ms. Constance Valentine, Science Advisory Board, 401 M Street, SW (1400F), Washington, DC 20460, telephone (202) 260–6552, FAX (202) 260–7118, or via the Internet at valentine.connie@epamail.epa.gov. To obtain a copy of the draft Acid Deposition Standard Feasibility Report to Congress, contact the Office of Air and Radiation Docket and Information Center at (202) 260–7548/7549 or at FAX (202) 260–4400 and refer to Docket AR–95–01.

Anyone wishing to make an oral presentation to the Subcommittee regarding the draft Report to Congress must notify Stephanie Sanzone, Designated Federal Officer for EPEC, at telephone (202) 260–6557, FAX (202) 260–7118, or via the INTERNET at sanzone.stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed.

(3) *The Physical Effects Review Subcommittee (CAACACPERS)* of the Clean Air Act Compliance Analysis Council (CAACAC) will conduct a brief teleconference meeting on Wednesday, April 12, 1995 from 2:00 p.m. to 3:00 p.m. eastern time. In the teleconference, the CAACACPERS will discuss its draft report resulting from a public meeting held on November 15 and 16, 1994 (See **Federal Register**, Vol. 59, No. 191, Tuesday, October 4, 1994, pp. 50599–50601, relating to review drafts of the Physical Effects Documents pertaining to section 812 of the Clean Air Act (CAA), namely (1) Ozone, (2) Sulphur Oxides, (3) Particulate Matter, (4) Carbon Monoxide, (5) Nitrogen Oxides, and (6) Lead, and a draft methodology document, which outlines the overall strategy of this effort. The proposed charge to the CAACACPERS relating to this review is listed in the October 4, 1994, **Federal Register** notice.

The CAACACPERS will also discuss with Agency staff additional supporting documentation regarding the overall Physical Effects review process; and to plan for a possible additional review for mid-May, to be held in Washington, DC, metropolitan area.

For copies of the Agency's draft section 812 CAA draft documents, please contact Ms. Eileen Pritchard, Secretary, U.S. Environmental Protection Agency, Office of Policy Planning and Evaluation (OPPE), Economic Analysis and Innovation Division (Mail Code 2127), 401 M Street, SW, Washington, DC 20460. Tel. (202) 260–3354, and FAX (202) 260–5732. Any member of the public desiring to participate in the teleconference, desiring additional information about the meeting, or desiring to obtain copies of the agenda and other information about the conduct of the meeting, or to request time on the agenda for public comments, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, or Ms. Diana Pozun, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552 or FAX at (202) 260–7118, or via the INTERNET at: pozun.diana@epamail.epa. Gov.

(4) *The Ecological Processes and Effects Committee* will meet on April 13, 1995, beginning at 10:00 a.m. and ending no later than 4:00 p.m., at the Quality Hotel Capitol Hill, 415 New Jersey Avenue, NW, Washington, DC. The purpose of the meeting is to receive a briefing on the Agency's development of draft Ecological Risk Assessment Guidelines, and to engage in a consultation with Agency staff on a proposal to establish a network of ecosystem index sites as part of the Environmental Monitoring and Assessment Program (EMAP). The SAB has developed the consultation as a mechanism to advise the Agency on technical issues that should be considered in the development of regulations, guidelines or technical guidance before the Agency has taken a position.

Additional Information: To obtain a meeting agenda, contact Ms. Constance Valentine, Science Advisory Board, 401 M Street, SW (1400F), Washington, DC 20460, telephone (202) 260–6552, FAX (202) 260–7118, or via the Internet at valentine.connie@epamail.epa.gov.

Anyone wishing to make an oral presentation to the Subcommittee regarding the topic under review must notify Stephanie Sanzone, Designated Federal Officer for EPEC, at telephone (202) 260–6557, FAX (202) 260–7118, or via the INTERNET at sanzone.stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed.

(5) *The Hazardous Waste Identification Rule (HWIR) Subcommittee* of the SAB Executive Committee will meet on April 26–27, 1995, at the Governor's House Hotel, 1615 Rhode Island Ave., NW, Washington DC, 20036, telephone (202) 296–2100. The Subcommittee will meet from 8:30 am to 5:00 p.m. on April 26 and from 8:00 a.m. to 4:00 p.m. on April 27. The meeting will be open to the public, but seating will be on a first-come basis.

Background: The purpose of the meeting is to review the Agency's draft multi-media, multi-pathway risk analysis being developed to support the proposed Hazardous Waste Identification Rule (HWIR); the purpose of HWIR is to specify those conditions under which materials designated as hazardous waste may be declassified as such and therefore no longer subject to the constraints of hazardous waste management. The Executive Committee established an ad hoc subcommittee for this review in order to adequately consider the multiple routes of fate, transport, and exposure of humans, plus ecological effects of wastes. The Charge to the Subcommittee includes examination of the approaches for assessing fate and transport of waste constituents, ecological exposure and effects, and human exposure and effects. In addition, the Agency has asked the Subcommittee to consider whether the approach taken for determining high-end estimates will produce roughly comparable levels of conservatism

across the different pathways and receptors being considered.

Additional Information: To obtain a copy of the review document, ''Development of human health-based and ecologically-based exit criteria for the Hazardous Waste Identification Project (HWIP),'' contact the RCRA Docket at (202) 260–9327. To obtain a meeting agenda, contact Ms. Constance Valentine, Science Advisory Board, 401 M Street, SW (1400F), Washington, DC 20460, telephone (202) 260–6552, FAX (202) 260–7118, or via the Internet at valentine.connie@epamail.epa.gov.

(6) *The Environmental Economics Advisory Committee (EEAC)* of the Science Advisory Board will meet on April 27, 1995 at the Holiday Inn Georgetown, 2101 Wisconsin Avenue NW, Washington DC 20007. The hotel telephone number is (202) 338–4600.

Background: The meeting, which is open to the public, will start at 9:00 a.m., and adjourn no later than 5:00 p.m. Its main purpose is to review reports drafted by the Committee on the resources for economic analysis at the Environmental Protection Agency, and on methodology for collecting information on the annual investment in pollution control capital equipment and operations. The Committee may also consult with Agency Staff from the Office of Policy, Planning and Evaluation (OPPE) on methodology underlying the OPPE ''Cost of Clean'' report.

Additional Information: An agenda for the meeting is available from the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202–260–6552). Members of the public desiring additional information about the conduct of the meeting should contact Dr. Edward Bender, Designated Federal Official, Environmental Economics Advisory Committee, by telephone at (202) 260–2562, via Internet to bender.edward@epamail.epa.gov, by facsimile to (202) 260–7118, or by mail to the address noted above.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for teleconference call meetings, opportunities for oral comment will be limited to no more than three minutes per speaker and no more than fifteen minutes total. For meetings other than teleconference calls, opportunities for oral comment will be usually limited to five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting or teleconference), may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

To Obtain More Information on or Participate in the SAB Meetings

These meetings are open to the public, but seating or telephone lines are limited and available on a first come basis. Any member of the public wishing further information concerning the meetings, such as a proposed agenda, or who wishes to submit oral to written comments (at least 35 copies) should contact the appropriate Designated Federal Official as listed above. Written inquiries can be sent to the following address: U.S. Environmental Protection Agency; 401 M Street SW., Washington, DC 20460, Phone: (202) 260–6552 or FAX (202) 260–7118.

Members of the public who wish to make a brief oral presentation at the teleconference or meetings should contact the listed Designated Federal Official no later than one week prior to the meeting of teleconference in order to have time reserved on the agenda. The Science Advisory Board expects that public statements presented at a teleconference or meeting will not be repetitive of the previously submitted oral or written statements. Written comments received in the SAB Staff Office sufficiently prior to a meeting date (usally one week prior to a meeting or teleconference), may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: March 30, 1995.

Samuel Rodberg,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–7496 Filed 3–24–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5178–6]

Common Sense Initiative Council (CSIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory CSIC subcommittee meeting(s); open meeting(s).

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several subcommittees of the Common Sense Initiative Council (CSIC) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed with each subcommittee announcement below.

(1) Printing Sector Subcommittee—April 18 and 19, 1995

The Common Sense Initiative Council, Printing Sector Subcommittee (CSIC-PSS) is conducting a meeting on April 18 and 19, 1995. The CSIC-PSS will meet at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202. The telephone number for the hotel is (703) 418–1234. On Tuesday, April 18th, the meeting schedule is 9 a.m. to 5 p.m. On Wednesday, April 19th, the meeting is scheduled from 9 a.m. until approximately 3:30 p.m. The meeting agenda will focus on several areas: (1) Finalizing procedural matters relating to the CSIC-PSS operation; (2) discussing draft workplans prepared by workgroups; and (3) allowing time for breakout sessions of the workgroups.

Limited time will be provided for persons wishing to make oral presentations at the meeting. Anyone wishing to submit written comments must forward at least 35 copies to Ginger Gotliffe, Designated Federal Officer (DFO), U.S. EPA, Office of Compliance (2224A), 401 M Street SW., Washington, DC 20460. Comments should be received by April 14. For further meeting information contact Ginger Gotliffe, DFO on (202) 564–7072, or Nancy Cichowicz, Alternate DFO, Region III, on (215) 597–2030.

(2) Automobile Manufacturing Sector Subcommittee—April 20, 1995

The Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee (CSIC-AMS) is holding an open meeting on Thursday, April 20, 1995 from 8:30 a.m. to 4:00 p.m., at the St. James Preferred Residence, 950 24th Street, NW.,

Washington, DC 20037, phone (202) 457–0500.

Three workgroups were formed at the first meeting in January, (1) Permits; (2) Regulatory Programs; and (3) Lifecycle Management and Innovative Technology. At this meeting, reports will be presented from the three workgroups on draft workplan activities. Information presented will aid the CSIC-AMS is discussion and development of a consensus workplan.

For further information on this meeting, please call Carol Kemker, DFO, on (404) 347–3555 (ext. 4222), Keith Mason on (202) 260–1360, or Leila Yim on (202) 260–0628.

(3) Iron and Steel Sector Subcommittee—April 26, 1995

The Common Sense Initiative Council, Iron and Steel Sector Subcommittee (CSIC-ISS) is convening an open meeting on Wednesday, April 26, 1995 from 8:30 a.m. to 11:30 a.m. at the Sheraton Cleveland City Centre Hotel, 777 St. Clair Avenue, Cleveland, OH 44114, telephone number (216) 771–7600.

The four CSIC-ISS workgroups (1) Innovative Technology; (2) Compliance; (3) Permits; and (4) Brownfields will meet on Tuesday preceding the meeting at the same location. The full CSIC-ISS subcommittee will meet on the 26th to deliberate and review activities and projects recommended by the workgroups and to provide consensus decisions on developing a CSIC-ISS workplan and implementing projects.

For further information on this meeting, please call either Mary Byrne, Region V, on (312) 353–2315 or Judith Hecht, EPA Headquarters, on (202) 260–5682.

(4) Metals Finishing Sector Subcommittee—April 27 and 28, 1995

The Common Sense Initiative Council, Metals Finishing Sector Subcommittee (CSIC-MFS) will hold an open meeting on April 27 and 28, 1995 at the Holiday Inn at the Crossing, 801 Greenwich Avenue, Warwick, RI 02886, telephone number (401) 732–6000 (the hotel is located off Exit 12A of Interstate 95). Meeting times are scheduled to run from approximately 9 a.m. to 4 p.m. each day. The meeting on April 27th will begin as an open session of the subcommittee followed by various workgroup sessions later that day. The full subcommittee will be in session all day on April 28th. The agenda will focus on further definition of workplan objectives and consensus decisions relating to workplan formulation and implementation. Workgroups of the CSIC-MFS include: Regulatory and Reporting Programs; Research and Technology; Promoting Improved Performance; Environmentally Responsible Transition; and Compliance Assistance and Enforcement.

For further information regarding CSIC-MFS activities relating to this announcement contact either Bob Benson, EPA Headquarters, on (202) 260–8668 or Mark Mahoney, Region I, on (617) 565–1165.

Inspection of Subcommittee Documents

Documents relating to the above subcommittee announcements will be publicly available at the meetings. Thereafter, these documents, together with official minutes for the meetings, will be available for public inspection in room 2417M of EPA Headquarters, Common Sense Initiative Program Staff, 401 M Street, SW., Washington, DC 20460, phone (202) 260–7417.

Dated: March 18, 1995.

Vivian M. Daub,

Acting Designated Federal Officer.

[FR Doc. 95–7493 Filed 3–24–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Correction to Report No. 2063]

Petition for Reconsideration of Actions in Rulemaking Proceedings

March 22, 1995.

Report No. 2063, released March 16, 1995 (60 FR 14941, March 21, 1995) prematurely listed the below petition for reconsideration. Therefore this petition is hereby deleted.

Subject: Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems. (PR Docket No. 93–61)

Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–7380 Filed 3–24–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

American Classic Voyages Company, Two North Riverside Plaza, Suite 600, Chicago, Illinois 60606

Vessel: AMERICAN QUEEN

Dated: March 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7374 Filed 3–24–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

YachtShip CruiseLine, Inc. (d/b/a American West Steamboat Company), 520 Pike Street, Suite 1610, Seattle, Washington 98101

Vessel: QUEEN OF THE WEST

Dated: March 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7375 Filed 3–24–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Discovery Sun Partnership, Discover Sun Cruises, Inc. and Discovery Sun Tours, Inc., 1850 Eller Drive, Fort Lauderdale, Florida 33316

Vessel: DISCOVERY SUN

Dated: March 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7376 Filed 3–24–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certification (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Discovery Sun Partnership, Discovery Sun Cruises, Inc. and Discovery Sun Tours, Inc., 1850 Eller drive, Fort Lauderdale, Florida 33316

Vessel: DISCOVERY SUN

Dated: March 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7377 Filed 3–24–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Radisson Seven Seas Cruises, Inc., Seven Seas Enterprise, Inc. and Seven Seas Nassau Limited, 600 Corporate Drive, Fort Lauderdale, Florida 33334

Vessel: SONG OF FLOWER

Dated: March 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7378 Filed 3–24–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Allied Irish Banks, p.l.c., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 10, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Allied Irish Banks, p.l.c., Dublin, Ireland; to engage *de novo* through its subsidiary First Maryland Bancorp, Baltimore, Maryland, in making investments in limited partnerships the primary purposes of which is to acquire, construct, or rehabilitate low- and moderate- income housing, which projects are intended to qualify for the Low Income Tax Credit under the Internal Revenue Code of 1986, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First State Bancorp, Inc., LaCrosse, Wisconsin; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-7425 Filed 3-24-95; 8:45 am]

BILLING CODE 6210-01-F

James River Bankshares, 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 April 20, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. James River Bankshares, Inc., Suffolk, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Suffolk, Suffolk, Virginia, and The Bank of Waverly, Waverly, Virginia.

B. 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 Comfort Bancshares, Inc., Comfort, Texas, and thereby indirectly acquire Comfort State Bank, Comfort, Texas.

Board of Governors of the Federal Reserve System, March 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-7426 Filed 3-24-95; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Administration for Children and Families

Availability of Funding for Alternative Approaches to the Provision of Cash Assistance, Medical Assistance, Social Services, and Case Management to Refugees [1]

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Request for applications under the Office of Refugee Resettlement's program to implement alternative projects to provide cash assistance, medical assistance, social services, and case management to refugees. This notice supersedes the notice published in the **Federal Register** of June 11, 1985 (50 FR 24583).

ELIGIBLE APPLICANTS: Eligible applicants for the alternative program grants include public and private non-profit organizations, such as States and public and private non-profit organizations and institutions.

SUMMARY: This is a standing announcement. It governs the competitive award of grants for the purpose of implementing alternative programs in order to improve the outcomes of the refugee resettlement program. Improvement is to be achieved by promoting employment at the earliest time possible, by increasing economic independence among refugees, and by improving delivery and coordination of assistance and services to refugees.

The intent of this announcement is to encourage Wilson/Fish alternative projects in areas where refugees have had a history of extended welfare utilization. Projects are also encouraged where there is interest in restructuring the program to become more cost effective: (a) By increasing the number of refugees who become self-sufficient, (b) by avoiding welfare dependency in the arriving refugee populations, and (c) by increasing coordination among assistance and social services agencies.

Alternative programs that provide interim cash and medical assistance to the project's refugees must be an alternative to Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA), and/or Aid To Families with Dependent Children (AFDC) and Medicaid Programs. Refugees receiving assistance through Wilson/Fish alternative projects are not eligible to receive comparable assistance from RCA/RMA and/or AFDC/Medicaid for which the Wilson/Fish projects are alternatives. However, this applies only to the assistance provided; e.g., if only cash assistance is provided under the alternative project, refugees would continue to be eligible for medical assistance (RMA or Medicaid) and the State would continue to receive reimbursement for RMA from ORR and from the Health Care Financing Administration (HCFA) for Medicaid.

ORR has no separate funding appropriated for the implementation of the alternative projects. Successful applicants will be awarded grants from existing ORR appropriations for cash and medical assistance and for social services. The grant awards must be reconciled with the level of funds the project's target population would otherwise receive during the same budget and project periods under the current program. If AFDC refugees are part of the application's target population, funds also will be awarded from the Federal share of Title IV–A (AFDC) assistance and from HCFA for Title XIX (Medicaid), if the project proposes an alternative to Medicaid. The State government will be required to contribute its share of funds for these programs as they would in the absence of an alternative project.

This announcement is soliciting applications for project periods up to five years. Awards, on a competitive basis, will be for a one-year budget period. Applications for continuation grants funded under these awards beyond the one-year budget period but within the five year project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress of the project and a determination that continued funding would be in the best interest of the government. In the event that changes to the previously approved project are proposed, these changes will be reviewed by the same criteria used for the original application. These criteria are: (a) Increasing refugee self-sufficiency, (b) avoiding welfare dependency, and (c) increasing coordination among the service providers and the voluntary agencies. For the first two years of the project, funds will be awarded under a cooperative agreement. Whether to continue subsequent awards under a cooperative agreement will be within the discretion of the Director.

This announcement also provides for an alternative project to be a vehicle to continue resettlement programs in States where the State government chooses not to administer RCA/RMA or equivalent programs.

The authorizing legislation permits alternative projects for refugees who have been in the U.S. less than 36 months, but it also permits projects to cover specific groups of refugees who have been in the U.S. for 36 months or longer and are determined to have been significantly and disproportionately dependent upon welfare, if the services proposed are needed for them to become self-sufficient and if including them under the project would be cost-effective.

EFFECTIVE DATE: This is a standing announcement. Review of applications will take place twice a year, or at the discretion of the Director, as indicated under ''**REVIEW AND DUE DATES.**''

FOR FURTHER INFORMATION CONTACT: Allan Gall, Director, Division of Operations, Office of Refugee Resettlement, 6th Floor, 370 L'Enfant Promenade, SW, Washington, DC 20447, (202) 401–9251.

AUTHORIZATION: Projects are authorized by section 412(e)(7) of the Immigration and Nationality Act, 8 U.S.C. 1522(e)(7). The applicable text of this provision, known as the ''alternative projects amendment,'' follows:

(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are

[1] In addition to persons who meet all requirements of 45 CFR 400.43, eligibility for refugee 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.

provided interim support, medical services, support 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. The Secretary may permit alternative projects to cover specific groups of refugees who have been in the United States 36 months or longer if the Secretary determines that refugees in this group have been significantly and disproportionately dependent on welfare and need the services provided under the project in order to become self-sufficient and that their coverage under the projects would be cost-effective.

(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

(C) . . .

(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

Purpose and Scope: The purpose of this announcement is to provide eligible applicants an opportunity to increase effectiveness in meeting arriving refugees' needs for assistance and services in a manner that promotes the refugees' social integration, early employment, and financial self-sufficiency. It offers applicants the opportunity to test ways of meeting arriving refugees' basic needs through services that are concurrent, are culturally and linguistically compatible, emphasize employment, and address the needs of all family members when providing employment and other social services. The services should be cost-effective by promoting welfare avoidance and by enhancing refugees' prospects for earliest possible self-sufficiency and should improve coordination of refugee social services in the community of resettlement.

There are several circumstances where an alternative project may be considered. For example, it may be appropriate: (1) Where the program of refugee cash and medical assistance is not being provided in a manner that is coordinated effectively with concurrent employment and language services to promote early self-sufficiency; (2) where the existing program of services is ineffective in assisting certain groups of refugees to become self-sufficient; (3) where AFDC-eligible refugees may not be priority clients for the Job Opportunities and Basic Skills Training (JOBS) program or may not have access to refugee service agencies that have culturally and linguistically compatible staff and services; (4) where the dual systems for assistance and services for refugees receiving AFDC and those receiving RCA/RMA limit the service providers' effectiveness in delivering services in a unified, coordinated, and consistent manner which is understood by the refugee community; and, (5) where refugees have to wait before enrolling in language and employment services because the demand for these services exceeds the supply.

Applications which propose to implement programs of both assistance and social services are strongly encouraged because ORR believes that assistance-only, or services-only, projects would not effectively implement the spirit of the amendment. If the application does not propose a comprehensive system of assistance and services, ORR will expect the application to give a rationale for the program proposed, to describe the exceptional circumstances surrounding it, and to offer a justification for its limited scope.

Wilson/Fish alternative projects will not be considered by ORR where they would represent competition for alternatives for the same assistance or services. For example, where a State has a Medicaid demonstration project approved by HCFA which covers refugees who would otherwise be eligible for RMA, ORR will not consider funding alternative health care services. However, ORR will reimburse the State for its share of the costs of HCFA-approved Medicaid alternative projects which cover refugees who would otherwise be RMA eligible.

Application Procedures

Designing a well-coordinated system of assistance and services for refugees is a complex task. For that reason, ORR urges all prospective applicants to consult extensively and collaborate fully with ORR while developing the application. The following procedures are designed to assist the process:

1. Prospective applicants who have contacted ORR will be provided informal consultation on the conceptualization of the problem and on potential corrective program strategies. In the event there is more than one applicant for the same community/geographic area, ORR will encourage prospective applicants to collaborate in one application; but, if collaboration is not possible, competing applications will be considered.

2. Prospective applicants shall submit a 3–5 page concept paper which is to include: a statement of the problem with respect to the goals of the alternative project (please cite statistics, if available, to document the problem with respect to the target population and the geographic area to be covered); a brief description of the current system of assistance and services; a description of current employment outcomes for refugees by 6-month arrival intervals; the proposed strategy to remedy the problem; a statement of the applicant agency's qualifications for administering the program proposed; and any additional information which the applicant feels is relevant in considering the concept proposed.

3. An application for a one-time-only planning grant to cover the costs of developing an alternative program may be submitted. The request should describe the proposed planning activities and the time needed to complete them. If the planning activities are to continue for more than 3 months, the application should include a proposed reporting schedule for planning activities and financial reports every 3 months. A line-item budget with supporting narrative must be provided. The costs of preparing an application will not be considered in the planning grant.

4. ORR staff will review the concept paper and, if submitted, the planning grant application. ORR will respond to concept papers within 30 days. Responses to requests for planning grants may require up to 60 days. Where indicated, ORR will provide comments and guidance on how, if possible, the concept might be made more feasible. Planning grant awards will be made at the Director's discretion.

5. The applicant will conduct comprehensive planning activities coordinated with the refugee resettlement community and commences with writing the application. If there is more than one applicant for the project, ORR will provide equal access by all applicants to information and consultation. As noted in earlier sections, alternative project grants are awarded from the existing appropriations, so award levels must be met from the funds available for cash and medical assistance and for social services. Therefore, prospective applicants are urged to consult frequently with ORR throughout the development of the application.

6. The application will be submitted.

7. The application will be reviewed against the criteria herein and against applicable ACF discretionary grant review procedures.

ORR strongly urges all applicants to follow these steps to ensure a comprehensive consultation process. However, the applications of agencies

that do not follow the steps suggested above will be given equal consideration and will be reviewed by the same criteria and applicable grant review procedures.

Application Content

1. Problem Statement

Describe the problem in the current resettlement situation with respect to: (a) Voluntary agencies placing refugees in the community and their relationship to the proposed alternative project; (b) the target population (numbers, ethnicities, and characteristics that might affect achievement of economic self-sufficiency, such as social adaptation, employment patterns, etc.) and the geographic area to be covered; (c) refugees' access to, and the availability of, entry-level employment in the community; (d) whether there is concurrent provision of language and employment services; (e) refugee welfare utilization data and the reasons, if applicable, for high utilization in the targeted community; (f) barriers to, and need for, coordination among public and private refugee service providers; and (g) current employment and other program outcomes.

2. Proposed Strategy: The Program Design

A. Describe the proposed program and address the specific policies and procedures of the program designed to include the following as appropriate:

1. *Cash and medical assistance* (e.g., eligibility criteria, payment standards, administrative procedures, etc.). The level of support must be equivalent to local AFDC/RCA payment standards and be distributed to the recipients fairly and equitably; there must be provision for sanctions for non-cooperation with employment and social services plans; and there must be provision for fair hearings and appeals similar to procedures followed in the AFDC or RCA programs.

2. *Employment services, language training, case management and other social services.* The application must discuss the services proposed to be provided under the project and to discuss how these will be coordinated with services for refugees available to project participants from providers not participating in the alternative project. The application should discuss how the targeted population will access the services, how they rank in priorities for available services and what limits exist, or will exist, on the scope of services, e.g., maximum number of hours of language training.

3. *Access to other Federal programs.* The application should discuss access and eligibility of the project's participants to other programs, e.g. Food Stamps, WIC, PIC/JTPA, AFDC/SSI/JOBS, expanded medical coverage under OBRA, etc.

B. Describe how the proposed project will improve the applicant's refugee resettlement program and how it proposes to provide interim financial support, medical services, support services and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters coordination among the resettlement agencies and service providers.

C. An integrated system of assistance and services is considered an essential characteristic of an alternative project. The application should describe how this integration will be effected in the project.

D. Alternative options for medical care are encouraged, but because these can be expensive and difficult to develop, applications will not be required to include alternative medical assistance where RMA or Medicaid remain available for refugees. If the applicant for an alternative project does not propose to provide medical services, the application must describe how medical services will be provided.

Any alternative to RMA proposed under an alternative project must provide services equivalent to the approved Medicaid Plan of the State(s) in which the project will be implemented. Where HCFA approves a State Medicaid demonstration, this becomes a State's approved Medicaid Plan for the persons eligible thereunder.

Where a State expands Medicaid eligibility through a Medicaid (Title XIX) demonstration project approved by HCFA to cover refugees not previously Medicaid eligible, medical coverage for refugees in alternative projects will not be considered, and where medical coverage is in effect, it will be terminated in a reasonable and timely manner to permit refugees to enroll under the HCFA-approved demonstration. ORR will reimburse States for the State's share of medical demonstration project costs for refugees who otherwise would have been eligible for RMA. (See ORR State Letter # 95–01, January 12, 1995. Attachment.)

E. Describe also the measures to be used to assure coordination of refugee service providers, including voluntary resettlement agencies, MAAs, and the other public and private agencies that provide services to refugees.

F. Provide documentation of consultation with the State Refugee Coordinator.

G. If a manual guiding the provision of assistance and services to the refugees is to be developed, this should be described and the proposed timeline for its completion included. If a manual is completed, this should be attached to the application to support the narrative of this section.

H. Where the application for the proposed alternative is a comprehensive State-wide project, the application must describe how the proposed alternative program will address any other element of the current State program which the new project would include, replace, interrelate with, or otherwise impact. This could include funding for Mutual Assistance Associations (MAAs), coordination with the State public health program for services to refugees, resources for language training services, etc. Projects proposing alternative cash assistance will need to coordinate with the State welfare office and these applicants must include a contact point within the State welfare system with whom the project proposes to coordinate as needed.

3. Rationale for the Alternative Projects

State the rationale for using the alternative project as the means for addressing the problem. State the rationale for the proposed program strategy that encourages refugees' self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers. Discuss the proposed strategy's anticipated cost effectiveness.

4. Organizational System

Describe the organization's plan for administering and managing the project. Describe the location of the project in the structure of the agency and include key personnel position descriptions and names of those who will implement the project. Describe the plans for training and on-going technical assistance.

Describe the overall data collection and analysis anticipated to document project outcomes. Describe the plan and schedule for program monitoring, evaluation, and required audits. Successful applicants will be required to report outcomes on ORR's standard Quarterly Performance Report (QPR).

If a manual is to be developed for the management and administration of the project, it should be described and the proposed timeline for its completion included. If the manual is completed, this should be attached to the

application to support the narrative of this section.

5. Program Outcomes

Describe proposed program outcomes. Include the plan for measuring project outcomes: e.g., welfare avoidances and numbers of refugees who achieve self-sufficiency, employment counseling and other services contacts, job placements, 90-day retention of employment, English language training participation numbers, etc.

6. Project Budget

Provide a detailed line-item budget by cost category: (a) Cash assistance, (b) medical assistance, (c) social services, to include employment services, language training, social adjustment services, and other allowable services, (d) administration (break out administrative costs by program activity). Describe how the costs for cash and medical assistance were calculated. (Sample client-loading chart and sample budget are available from ORR.) Discuss the costs of the current program using the most recent 12 month period for which data exists, including numbers of refugees served, to provide a base for comparing the estimated costs of the project. Discuss unit costs of services to the refugees for the current program and for the proposed project (e.g., include the anticipated arrival rates of refugees into the community). Provide a narrative to support the costs included in each category. Since ORR does not receive funds specific to the implementation of alternative projects and has not specified ''funds available'' in this notice, it is important to discuss the amount of funds requested during the planning and application process with ORR in order to assure a project design which ORR can fund. It is also important to list the anticipated funding sources with projected amounts, i.e., ORR, State government, other federal programs, and any other resources.

Application Review Criteria

1. Problem Statement

Clarity and completeness of description of: The problem; targeted population; coordination of services in the local resettlement community; opportunity for early employment for refugees; availability of concurrent employment and language services; adequacy of the statistics used to describe the problem. Points: (10)

2. Proposed Program Strategy

Clarity, completeness, and reasonableness of the proposed strategy as it relates to the target population to be served and the geographic area to be covered; adequacy of the cash and, if provided, medical assistance policies and administration; fairness and equity of the eligibility criteria for assistance; reasonableness of the sanctioning procedures and the clients' access to appeals and fair hearings procedures; coordination of assistance and services; availability of other Federal and State programs; entry-level employment opportunities; provision, availability, and coordination with existing language training; appropriateness and purpose of case management strategies; coordination with other service providers within the community of resettlement; consultation with the State Coordinator; and if the State will no longer administer the program, the adequacy of the coordination with the mainstream State-administered agencies which also provide services to refugees, i.e., public health, AFDC program (if not included in the alternative projects target population), etc. Points: (35)

3. Rationale for Proposing the Alternative Projects

Appropriateness and reasonableness of the rationale for proposing an alternative project. Probability that the project will increase refugee self-sufficiency, avoid welfare dependency among arriving refugees, and assure coordination among the service providers and voluntary agencies. Probability that the project will be cost-effective. Points: (10)

4. Organizational System

Adequacy of the organizational system for project administration. Adequacy of staff training and ongoing technical assistance activities. Adequacy of reporting design (e.g., use of ORR Quarterly Performance Report, data analysis, etc.). Adequacy of plan for program monitoring and evaluation. Points: (15)

5. Proposed Outcomes

Reasonableness of the outcomes proposed; feasibility of the methodology proposed for collecting outcome data. Points: (15)

6. Project Budget

Reasonableness, adequacy, and completeness of the budget and line-item budget narrative. Reasonableness of procedures (e.g., client-loading chart) used to estimate the budget amount requested. Adequacy of the discussion of the anticipated funding sources. Points: (15)

Application Submission Information

Application Assurances Forms

Attachments contain the standard forms necessary for the application for awards under this announcement. Copies may be obtained by writing or telephoning: Office of Refugee Resettlement, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone: (202) 401–9251.

Each application should complete and include one original and two additional copies of the following forms. The instructions and forms required for submission of applications are attached. The forms may be reproduced for use in submitting applications:

a. A 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. 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 Certification and the Debarment Certification.

b. ''Budget Information-Non-Construction Programs'' SF–424A).

c. A completed, signed and dated ''Assurance-Non-Construction Programs'' (SF–424B).

d. Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements: completed, sign and date form.

e. Disclosure of Lobbying Activities, SF-LLL: completed, sign and date form, if necessary.

f. A project Narrative consisting of the elements described in the Application Content section of this announcement.

Procedures for Submission

Applications must be submitted in accordance with the closing dates specified below.

a. Deadlines:

Review and Due Dates: Applications to this standing announcement will be considered on April 1 and October 1 each year. Applications received at other times will be reviewed at the discretion of the Director. Applications will be considered to have met the April 1 and October 1 review dates if they are either:

(1) Received on or before the deadline date at the address specified in this program announcement; or

(2) Mailed on or before the deadline date and received by the granting agency in time for the independent review. (Applicants must be cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier

or U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.)

b. Application Delivery:

By Hand: Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street, SW., Washington, DC 20447.

By Mail: Applications may be mailed to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 6th Floor, OFM/DDG, Washington, DC. 20447. A formal grant application sent by mail—including Express Mail and other, private ''express'' mail service parcels—must be addressed as indicated above and must be *postmarked* no later than midnight on the closing date in order to be considered.

c. Late applications: Applications which do not meet the criteria in paragraph a. of this section are considered late applications. ACF will notify each late applicant that its application is not being considered in the current competition.

d. Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread 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.

Once an application has been submitted, it is considered as final and no additional materials will be accepted by ACF. An application with an original signature and two copies is required.

e. Non-profit status: Applicants other than public agencies must provide evidence of their nonprofit status with their applications. Any of the following is acceptable evidence: (1) A copy of the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501 (c) (3) of the IRS Code; or (2) a copy of the currently valid IRS tax exemption certificate.

Intergovernmental Review (SPOC)

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, Colorado, Connecticut, Hawaii, Alaska, 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 19 jurisdictions need take no action regarding Executive Order 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 application and to 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 60 days from the application deadline date to comment on proposed new or competing continuation awards.

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, 6th Floor, OFM/DDG, 370 L'Enfant Promenade SW., Washington, DC. 20447.

A list of Single Points of Contact for each State and Territory is included as appendix A of this announcement.

Applicable Regulations

Applicable HHS regulations will be provided to grantees upon award.

Post Award Requirements for Reports and Records

Grantees are required to file Financial Status (SF–269) reports on a semi-annual basis and Program Progress Reports on a quarterly basis. Funds shall be accounted for and reported upon separately from all other grant activities.

The official receipt point for all reports and correspondence is the Division of Discretionary Grants. The original copy of each report shall be submitted to the Grants Management Specialist, Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 6th Floor, OFM/DDG, 370 L'Enfant Promenade SW., Washington, DC. 20447.

The final Financial and Program Progress Reports shall be due 90 days after the project period expiration date or termination of grant support.

Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0348–0043.

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this announcement is 93.583.

Dated: March 20, 1995.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 95–7506 Filed 3–24–95; 8:45 am]

BILLING CODE 4184–01–P

Appendix A—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, PO. 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 Peral 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 Contract, 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, PO 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 and 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, PO 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, PO 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, PO 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.

BILLING CODE 4184–01–M

APPENDIX 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): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

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)*:

_____

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: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ 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 identifer 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 requested.

11. Enter a brief descriptive tite 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

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

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)

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 Columns (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 provide 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 total 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 Columns (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 of 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 complete 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 the 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 nondiscrimination 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–1 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 or 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.

_____

Signature of authorized certifying official

_____

Title

_____

Applicant organization

_____

Date submitted

BILLING CODE 4184–01–M

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

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:

(1) 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 for 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 or 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 Services (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.

Appendix E—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 an 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 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 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 required 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:**	2. **Status of Federal Action:**	3. **Report Type:**
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. **Name and Address of Reporting Entity:**	5. **If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:**
☐ Prime ☐ Subawardee Tier _____, *if known:* **Congressional District,** *if known:*	 **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):*	13. **Type of Payment** *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ 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:** _____

Federal Use Only: **Authorized for Local Reproduction Standard Form - LLL**

BILLING CODE 4184–01–C

Appendix F—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 facility owned or leased or contracted for by an entity and used routinely or regularly for the 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 residences, 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 $1,000 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 children's services and that all subgrantees shall certify accordingly.

Appendix G—ORR State Letter

Number 95–01

Date: January 12, 1995.

To: State Refugee Coordinators
From: Lavinia Limon, Director, Office of Refugee Resettlement
Subject: Impact of Medicaid Waivers on Refugee Medical Assistance

Several States have received Medicaid waivers to expand health insurance for needy persons. These waivers have targeted needy individuals who are not categorically eligible for Medicaid, such as single persons, childless couples, and intact families without a connection to the work force. Many refugees now receiving refugee medical assistance (RMA) may become eligible under these new waiver programs. This letter is to provide policy clarification to States regarding how to handle eligibility in such situations and what ORR's policy regarding cost reimbursement will be for such cases.

ORR's policy is that refugees who become eligible for Medicaid through waiver provisions must be served under the Medicaid program, rather than under RMA.

Currently, 45 CFR 400.94 provides that a determination of eligibility for Medicaid must precede a determination of eligibility for RMA. In addition, § 400.100 restricts RMA coverage to refugees who are ineligible for Medicaid but who meet the financial eligibility requirements under § 400.101. The Health Care Financing Administration (HCFA) has informed us that the provisions of an approved Medicaid waiver replaces the applicable sections of the Medicaid State plan. Accordingly, under § 400.94, States must first determine refugee eligibility for the Medicaid waiver program. Only those refugees not eligible under the Medicaid waiver program could be eligible for RMA. If all refugees in a State are eligible under the waiver, the RMA program would be supplanted in its entirety by the Medicaid waiver program.

Costs incurred for refugees in a waiver program will be treated in the following manner:

- ORR will reimburse States for the State share of costs for refugees who would otherwise be eligible for RMA but who become eligible for Medicaid through the approved waiver provisions. The reimbursable costs will include the State share of Medicaid costs for these refugees for the first eight months of U.S. residency (or for whatever period of eligibility is in effect for RMA), including the State share of administrative costs of providing Medicaid to these refugees.
- ORR will not reimburse States for costs incurred by refugees who would have been eligible for Medicaid without the waiver provisions, such as refugees receiving SSI and AFDC.

We wish to emphasize the following two principles which guide our policy considerations on health care reform:

(1) ORR is committed to allowing States to include refugees in health care reform programs whenever possible, whether initiated at the Federal or State level; and

(2) ORR is committed to holding States harmless by reimbursing States for the State share of costs for RMA-eligible refugees in State health care reform programs.

In the event that your State applies for a Medicaid waiver which might affect the refugee program, please contact your State liaison or the ORR Policy Division in order to assure common understanding regarding the waiver and its implications for RMA and for refugees. We want to work together to assure that there is no misunderstanding regarding the regulations or how the costs will be covered.

[FR Doc. 95–7506 Filed 3–27–95; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–95–1085; FR–3868–D–01]

Revocation in Part and Delegation of Authority for Indian Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revocation in part and delegation of authority.

SUMMARY: This notice revokes authority from the Assistant Secretary for Community Planning and Development (CPD), in the case of Indian Tribes and Alaska Natives only, to administer the Emergency Shelter Grants Program (ESG) under Subtitle B of Part IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.* This notice delegates this authority to administer the ESG Program pertaining to Indian Tribes and Alaska Natives to the Assistant Secretary for Public and Indian Housing (PIH).

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Elaine Dudley, Deputy Director for Headquarters Operations, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, B–133, 451 7th Street, SW, telephone (202) 755–0066 or 755–0850 (voice/TDD). (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: By statute, Indian tribes receive a set aside of 1% of funds appropriated for the ESG Program for Indian and Alaskan Natives under Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.* Originally this set aside of ESG funds for Indian tribes was administered by CPD field office staff working within Indian program offices located in six regional or field offices. CPD had complete responsibility for the set aside within its ESG Program.

Pursuant to Section 902 of the Housing and Community Development Act of 1992, 42 U.S.C. 3533, the Office of Native American Programs (ONAP) was created within the Office of Public and Indian Housing (PIH) in Headquarters. According to the statute, the office is to administer and coordinate all programs of the Department relating to Indian and Alaska Native housing and community development. In addition, ONAP is to direct, coordinate and assist in managing HUD field offices that administer Indian and Alaska Native programs.

In accordance with the statute, the Secretary has already delegated to the Assistant Secretary for PIH, and the Assistant Secretary for PIH has redelegated to the Director, the Deputy Director for Headquarters Operations, and the Deputy Director for Field Operations, Office of Native American Programs, the authority for the HOME and Community Development Block Grant (CDBG) Programs, in the case of Indian Tribes and Alaska Natives. This authority previously rested with the Assistant Secretary for CPD.

In furtherance of the goal of having one office of the Department administer all programs pertaining to Indian and Alaska Natives, the Secretary is revoking from the Assistant Secretary for CPD, and delegating to the Assistant Secretary for PIH, in the case of Indian Tribes and Alaska Natives only, the authority for the Emergency Shelter Grants Program under Subtitle B of Part

IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.* In addition, published elsewhere in today's Federal Register, the Assistant Secretary for PIH is redelegating this authority to the Director, the Deputy Director for Headquarters Operations, and the Deputy Director for Field Operations, Office of Native American Programs, within the Office of Public and Indian Housing.

Accordingly, the Secretary revokes in part and delegates authority as follows:

Section A. Authority Delegated

The Secretary of the Department of Housing and Urban Development delegates individually to the Assistant Secretary for PIH and to the General Deputy Assistant Secretary for PIH all power and authority with respect to the Emergency Shelter Grants Program, for Indian Tribes and Alaska Natives, pursuant to Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.*, except as provided in Section B of this delegation of authority.

Section B. Authority Excepted

The authority delegated under Section A does not include the power to sue and be sued.

Section C. Authority Revoked

The Secretary of Housing and Urban Development revokes in part the Delegation of Authority published in the **Federal Register** on September 4, 1987, at 52 FR 33793: At Section A of that delegation, the Secretary revokes the authority of the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development, in the case of Indian Tribes and Alaska Natives only, to exercise the power and authority of the Secretary with respect to the Emergency Shelter Grants Program under Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. 11371 *et seq.*

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d).

Dated: March 15, 1995.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

[FR Doc. 95–7400 Filed 3–24–95; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. D–95–1086; FR–3869–D–01]

Redelegation of Authority for Indian Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice, the Assistant Secretary for PIH redelegates the authority for the Emergency Shelter Grants Program, for Indian Tribes and Alaska Natives, pursuant to Subtitle B of Part IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C 11371 *et seq.*

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Elaine Dudley, Deputy Director for Headquarters Operations, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, B–133, 451 7th Street, SW, telephone (202) 755–0066 or 755–0850 (voice/TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: By statute, Indian tribes receive a set aside of 1% of funds appropriated for the ESG Program, for Indian and Alaskan Natives, under Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.* Originally, this set aside of ESG funds for Indian tribes was administered by CPD field office staff working within Indian program offices located in six regional or field offices. CPD had complete responsibility for the set aside within its ESG program.

Pursuant to Section 902 of the Housing and Community Development Act of 1992, 42 U.S.C. 3533, the Office of Native American Programs (ONAP) was created within the Office of Public and Indian Housing (PIH) in Headquarters. According to the statute, the office is to administer and coordinate all programs of the Department relating to Indian and Alaska Native housing and community development. In addition, ONAP is to direct, coordinate and assist in managing HUD field offices that administer Indian and Alaska Native programs.

Consistent with the statute, the Secretary has elsewhere in today's **Federal Register** transferred to the Assistance Secretary for PIH, in the case of Indian Tribes and Alaska Natives only, the authority for the Emergency Shelter Grants Program under Subtitle B of Part IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.* Also in accordance with Section 902, this redelegation of authority redelegates this authority pertaining to Indian Tribes and Alaska Natives to Officials in the Office of Native American Programs within PIH.

Accordingly, the Assistant Secretary for PIH redelegates authority as follows:

Section A. Authority Delegated

The Assistant Secretary for PIH redelegates individually to the Director, Office of Native American Programs, to the Deputy Director for Headquarters Operations, Office of Native American Programs, and to the Deputy Director for Field Operations, Office of Native American Programs, all power and authority with respect to the Emergency Shelter Grants Program, for Indian Tribes and Alaska Natives, pursuant to Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.*, except as provided in Section B of this delegation of authority.

Section B. Authority Excepted

The authority redelegated under Section A does not include the power to sue and be sued.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 15, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–7399 Filed 3–24–95; 8:45 am]

BILLING CODE 4210–33–M

COMMISSION ON INTERGOVERNMENTAL RELATIONS

Advisory Commission on Intergovernmental Relations

Notice of Request for Suggested Criteria and Other Information for Evaluating Existing Mandates on State, Local, and Tribal Governments

March 20, 1995.

The Advisory Commission on Intergovernmental Relations (42 U.S.C. 4271) has been directed by the Unfunded Mandates Reform Act of 1995 enacted on March 22, 1995, to make recommendations to the President and Congress regarding:

(A) allowing flexibility for state, local, and tribal governments in complying with specific federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more federal mandates which impose contradictory or inconsistent requirements;

(C) terminating federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, federal mandates which are not vital to public health and safety and which compound the fiscal difficulties for state, local, and tribal governments, including recommendations for triggering such suspensions;

(E) consolidating or simplifying federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by state, local, and tribal governments with those mandates;

(F) establishing common federal definitions or standards to be used by state, local, and tribal governments in complying with federal mandates that use different definitions or standards for the same terms or principles; and

(G) (i) the mitigation of negative impacts on the private sector that may result form relieving state, local, and tribal governments from federal mandates (if and to the extent that such negative impacts exist on the private sector); and

(ii) the feasibility of applying relief from federal mandates in the same manner and to the same extent to private sector entities as such relief is applied to state, local, and tribal governments.

These recommendations are to be based on criteria established by the ACIR. Within 60 days after enactment of the Act, proposed criteria must be issued for public comment. To assist the Commission in the development of proposed criteria, suggestions are being solicited on an informal basis from interested parties. Because time is limited for the preparation of the proposed criteria, all suggestions should be received by ACIR no later than Friday, April 28 1995.

Suggestions received will be reviewed by staff and may, or may not, be incorporated in the proposed criteria. All suggestions that are submitted will be available for inspection at ACIR offices, but no specific or general response to them will be made by ACIR staff. Those submitting suggestions will not be subsequently bound by their contents, and will have full rights to comment on the proposed criteria during the public comment period.

In addition to suggestions about criteria, ACIR also welcomes suggestions about the following topics:

1. In conducting the studies under Section 302, ACIR is to give highest priority to ''reviewing and making recommendations regarding Federal mandates that are the subject of judicial proceedings.'' Because it is likely that there are a large number of lawsuits contesting existing mandates, lists of mandates currently in federal courts will be appreciated, with identification of the court and case number, if possible.

2. Lists of other mandates that respondents feel should be given special attention in the study.

Suggstions or inquiries should be addressed as follows: Charles Griffiths, Intergovernmental Liaison, Advisory Commission on Intergovernmental Relations, 800 K St. N.W., Suite 450 South, Washington, D.C. 20575.

Charles Griffiths,

Intergovernmental Liaison.

[FR Doc. 95–7392 Filed 3–24–95; 8:45 am]

BILLING CODE 5500–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–060–06–1220–00–P (604)]

Notice of Roads and Campground Closures at Fort Stanton Reservation, NM

AGENCY: Bureau of Land Management (BLM), Roswell District.

ACTION: Road and campground closures at Fort Stanton Reservation New Mexico.

SUMMARY: Pursuant to 43 CFR part 8364 and the Fort Stanton Management Framework Plan (MFP) of May 28, 1980, the Bureau of Land Management (BLM) will close a portion of the access road to the Rio Bonito Campground starting at the west boundary of Camp Sierra Blanca (Fort Stanton, NM) and extending about 9/10 of a mile west into public lands administered by the Roswell District, BLM. The BLM will close the Rio Bonito Campground to camping and motorized vehicle use. The road leading from the campground to the north mesa of Fort Stanton Reservation will also be closed to motor vehicle use.

DATES: The closure will become effective at the date of publication of this notice.

ADDRESSES: Information and maps showing the location of the above closures will be available at the Bureau of Land Management, Roswell District Office, 1717 West 2nd Street, Roswell, NM 88201–2019, telephone (505) 627–0272; Roswell Resource Area Office, Federal Building, 5th and Richardson, P.O. Drawer 1857, Roswell, NM 88202–1857, telephone (505) 627–1790; and the U.S. Forest Service, Lincoln National Forest, Smokey Bear Ranger District, 901 Mechem Drive, Ruidoso, NM 88345.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kreager, Area Manager, Roswell Resource Area, P.O. Drawer 1857, Roswell, NM 88202–1857; telephone (505) 624–1790.

SUPPLEMENTARY INFORMATION: A three-acre campground will be closed to camping and motor vehicle access. Approximately three miles of roads will also be closed to motor vehicles. The following describes the areas:

New Mexico Principal Meridian

Fort Stanton Reservation

One section of the road closure is located in unsurveyed and protracted portions of T.9S., R.14E., Sec. 34, SE¼SE¼, Sec. 35, SW¼NE¼.

Another section of road closure is located in unsurveyed and protracted portions of T.9S., R.14E., Sec. 32, SE¼SE¼; Sec. 33, SW¼SW¼; T. 10S., R.14E., Sec. 4, W½.

The campground is located in unsurveyed and protracted portions of T.10S., R.14E., Sec. 4, SE¼SW¼.

Camp Sierra Blanca (CSB) a minimum security prison for the State of New Mexico, Fort Stanton, NM, has requested the BLM discourage public use of a traditional access route through the prison to public lands. Traditionally, the road was used for access through CSB to the west side of the Fort Stanton Reservation and the Rio Bonito Campground. The closure of the road has become necessary for prison security and safety of visitors using public lands within this portion of the Fort Stanton reservation.

The campground will be closed due to its loss of access and need of a prolonged rest to renew the environment. The campground area has received severe damage to soils, mature trees and riparian vegetation through use by the visiting public during the past ten years. Damage includes soil compaction from vehicles, soil sterilization from uncontained fire pits, vegetation trampling and tree cutting. An access road leading from the north side of the Rio Bonito Campground to the north mesa of Fort Stanton will also be closed. The road is poorly constructed and causes severe soil erosion. The road is also a safety hazard to the public, due to steep grades and slippery conditions when wet.

Current alternatives in the Draft Resource Management Plan (RMP) for the Roswell Resource Area include proposals for additional campgrounds within the Fort Stanton Reservation Area. The alternatives for campgrounds in the RMP will be environmentally suitable, have better access and will serve the public to a greater extent. After the final RMP and Record of Decision are issued, a Special Management Area (SMA) Plan will be developed to analyze and select future campground locations within the Fort Stanton Reservation Area.

Due to the closure of traditional access routes to the campground from CSB for

security and public safety concerns, damage caused by camping pressure and closure of the north mesa access road due to environmental damage, the Rio Bonito Campground will be closed to camping and vehicle use.

Dated: March 15, 1995.

Leslie M. Cone,

District Manager.

[FR Doc. 95–7383 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–FB–M

[NM–017–1430–01; NMNM 88815]

Sale of Public Land in Bernalillo County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public land has been found suitable for sale utilizing modified competitive sale procedures under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at not less than the appraised fair market value (FMV) of $4,200. The land will not be offered for sale for at least 60 days after publication of this notice

New Mexico Principal Meridian

T. 11 N., R. 6 E.,
Sec. 34; lot 2.
Containing 2.12 acres.

This land is isolated, difficult and uneconomical to manage as part of the public lands and is not suitable for management by another Federal department or agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning efforts and the public interest will be served by offering this land for sale.

Bidders must be United States citizens, 18 years of age or older, a state or state instrumentality authorized to hold property, and corporations authorized to own real estate in the state in which the land is located. The apparent high bidder must submit proof of these requirements within 15 days after the sale date.

The land will be offered for sale at public auction using modified bidding procedures authorized under 43 CFR 2711.3–2. Bidding for this parcel is open to the following adjacent land owners (designated bidders): George T. Glacken, Jr. and Lucille Glacken, Wayne D. Francisco, Gary D. Maple and Steven M. Jackson, Gilbert B. Libby Jr., and Charles Kennington.

The land will be offered for sale at public auction beginning at 10 a.m. on June 26, 1995, at 435 Montano Rd. NE., Albuquerque, NM 87107. The sale will be by sealed bids only. All sealed bids must be received by the BLM's Rio Puerco Resource Area Office at 435 Montano Rd. NE., Albuquerque, NM 87107, prior to 10 a.m. on the date of the sale, June 26, 1995.

Bids must be for not less than the appraised FMV specified in the notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, Bureau of Land Management for not less than 10 percent of the amount bid. The sealed bid envelopes must be marked on the lower left hand corner: *Public Sale Bid NMNM 88815.*

Under modified competitive sale procedures, the written sealed bids will be opened and an apparent high bid will be declared at the sale. The apparent high bidder and the other designated bidders will be notified. In case of a tie of bids submitted by the designated bidders, the interested bidders would be given an opportunity to submit a written agreement as to the division of the lands, or an additional sealed bid, within 30 days of notification of eligibility. At that time, the high bidder would be awarded the property. The total purchase price for the land shall be paid within 180 days of the date of this sale.

The purchaser of this parcel acquires the property realizing that public access to the property is lacking.

Terms and Conditions

The patent, when and if issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals will be reserved to the United States together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this office.

3. The patent will be issued subject to valid existing rights-of-way and easements.

DATES: Interested parties may submit comments regarding the proposed action to the Rio Puerco Area Manager by May 11, 1995. Comments must reference the specific parcel number. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Rio Puerco Resource Area Office, 435 Montano Road NE., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the land, terms and conditions of sale, and bidding instructions may be obtained from the Rio Puerco Resource Area Office at the above address. Telephone calls may be directed to Joseph Jaramillo at (505) 761–8779.

SUPPLEMENTARY INFORMATION: Upon publication in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice of Realty Action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any offer to purchase or withdraw this tract from sale if the Authorized Officer determines that consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Dated: March 21, 1995.

Michael R. Ford,

District Manager.

[FR Doc. 95–7446 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–FB–M

[WY–060–1430–01; WYW88721, WYW88724, WYW88725, WYW88728, WYW88730, WYW88731]

Amended Realty Actions; Direct and Modified Competitive Sale of Public Lands; Wyoming; Land Sale Appraisal Updates for Lands in Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Amended notices of realty action, sale of land parcels in Platte and Goshen Counties, Wyoming; and, amended land sale appraisal update for lands in Wyoming.

SUMMARY: On July 29, 1986, Notices of Realty Action WYW88721, WYW88724, WYW88725, WYW88730, and WYW88731 were published in the **Federal Register** in 51 FR 27090–27091. On July 30, 1987, Notice of Realty Action WYW88728 was published in the **Federal Register** in 52 FR 28488–28489. On August 25, 1987, Notices of Realty Action WYW88721, WYW88724, WYW88725, WYW88730, and WYW88731 were published in the **Federal Register** in 52 FR 32064–32066. This Notice from the date it is published amends the earlier notices by deleting

the appraised values for the parcels of land.

FOR FURTHER INFORMATION CONTACT: William H. Mortimer, Area Manager, Bureau of Land Management, Platte River Resource Area, P.O. Box 2420, Mills, Wyoming 82644–2420, (307) 261–7500.

SUPPLEMENTARY INFORMATION: The appraised fair market value of the land described in 51 FR 27090–27091, 52 FR 28488–28489, and 52 FR 32064–32066 has been reevaluated. Please contact the Platte River Resource Area Office for current appraisal information.

Dated: March 16, 1995.

Donald D. Whyde,

Acting District Manager.

[FR Doc. 95–7384 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Notice of availability of a Draft Recovery Plan for the Mexican Spotted Owl for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Mexican spotted owl (Strix occidentalis lucida) which the Service listed as a threatened species on March 16, 1993 (58 FR 14271). The Mexican spotted owl is one of three spotted owl subspecies recognized by the American Ornithologists' Union. This subspecies was originally described from a specimen collected at Mount Tancitaro, Michoacan, Mexico. The Mexican spotted owl is a medium-sized bird found from parts of central Colorado and Utah south through Arizona, New Mexico, and western Texas to the State of Michoacan, Mexico. This owl commonly inhabits mountains and canyons containing dense, multistoried forests with closed canopies. Its survival is threatened by destruction and modification of habitat caused by timber harvest, forest fires, and increased predation associated with habitat fragmentation. The draft recovery plan recommends management actions to be taken by Federal, State, and tribal land management agencies to remove recognized threats and recover the spotted owl. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before June 26, 1995, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Supervisor, Ecological Services State Office, 2105 Osuna Road NE, Albuquerque, New Mexico 87113. Written comments and materials regarding the plan should be addressed to the Regional Director at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, U.S. Fish and Wildlife Service, (see **ADDRESSES** section) (telephone 505/761–4525; facsimile 505/761–4542).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe site-specific management actions considered necessary for conservation and survival of the species; establish objective, measurable criteria for the recovery levels for downlisting or delisting species; and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during public comment prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The recovery plan provides a basis for management actions to be undertaken by Federal, State, and tribal land management agencies to remove threats to the Mexican spotted owl's continued existence. The recovery plan contains six basic elements: 1. A recovery goal and set of delisting criteria that will allow the Mexican spotted owl to be removed from the endangered species list; 2. strategies for management that provide varying levels of habitat protection depending on the owl's needs and habitat use; 3. recommendations for population and habitat monitoring; 4. research to address critical information needs to better understand the owl's life history; 5. implementation procedures that specify oversight and coordination responsibilities for the owl's recovery; and 6. information on the approximate costs of carrying out the tasks set forth in the draft recovery plan.

The Mexican spotted owl recovery plan has been prepared by a team of experts on the owl and its habitat requirements. This recovery plan will be finalized and approved following incorporation of comments and materials received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to the approval of the plan.

Authority

The Authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: March 7, 1995.

James A. Young,

Acting Regional Director, Fish and Wildlife Service, Region 2.

[FR Doc. 95–7449 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Notice

SUMMARY: Notice is hereby given that the U.S. Geological Survey is planning to enter into a Cooperative Research and Development Agreement (CRADA) with a geophysical data processing company (Paterson, Grant and Watson Limited) and mining and petroleum companies. The purpose of the CRADA is to reprocess the magnetic-anomaly data base on the United States and produce a more consistent and accurate data set in the form of a one-kilometer grid that will be made available to the general public. All magnetic survey data will be continued to a surface at 1000 feet above the ground and an appropriate reference field will be removed. Paterson, Grant and Watson Limited will be responsible for acquiring funding from petroleum and mining companies for this

compilation and will carry out the reprocessing of over 1000 magnetic survey data sets. The USGS will provide magnetic data and will carry out collaborative research to improve the technology in preprocessing magnetic-anomaly data. Any geoscience company interested in participating in this upgrade of the U.S. magnetic-anomaly data base is encouraged to contract the USGS.

DATES: This notice is effective March 27, 1995.

ADDRESSES: Information on the proposed CRADA is available to the public upon request at the following location: U.S. Geological Survey, Branch of Geophysics, 345 Middlefield Road, MS 989, Menlo Park, California 94025.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Hildenbrand of the U.S. Geological Survey, Branch of Geophysics, at the address given above; telephone 414/329–5303; fax 415/329–5133; e-mail tom@laplace.wr.ugsg.gov.

John R. Filson,

Acting Chief Geologist.

[FR Doc. 95–7458 Filed 3–24–95; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Ashland Inc., 1000 Ashland Drive, Russell, KY 41114.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

Subsidiary	Jurisdiction of Incorporation
APAC—Alabama, Inc	Delaware.
APAC—Arkansas, Inc	Delaware.
APAC—Carolina, Inc	Delaware.
APAC—Florida, Inc	Delaware.
APAC—Georgia, Inc	Georgia.
APAC, Inc	Delaware.
APAC—Kansas, Inc	Delaware.
APAC—Mississippi, Inc	Delaware.
APAC—Oklahoma, Inc	Delaware.
APAC—Tennessee, Inc	Delaware.
APAC—Texas, Inc	Delaware.
APAC—Virginia, Inc	Delaware.
Ashland Pipe Line Company	Ohio.
Ashland Ethanol, Inc	Delaware.
Ashland Development, Inc	Delaware.
Ashland Construction Communications Company	Delaware.
Ecogard, Inc	Delaware.
Ig-Lo Transportation, Inc	Delaware.
Inland Towing Company	Delaware.
J.T. Trucklines, Inc	Texas.
Mid-Valley Supply Company	Kentucky.
Nettles, Inc	South Carolina.
Reg X Condor, Inc	Delaware.
Scurlock Permian Corporation	Kentucky.
Scurlock Permian Pipe Line Corporation	Kentucky.
Southwest Land & Development Co., Inc	Arizona.
Supermom's, Inc	Minnesota.
Tap-Co, Inc	North Carolina.
Warren Brothers Hauling, Inc	Delaware.

Vernon A. Williams,

Secretary.

[FR Doc. 95–7442 Filed 3–24–95; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–330 (Sub-No. 2X)]

Otter Tail Valley Railroad Company, Inc.—Abandonment Exemption—in Otter Tail County, MN

Otter Tail Valley Railroad Company, Inc. (OTVR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.1 miles of rail line between milepost 184.0 and milepost 185.1, in Otter Tail County, MN.

OTVR 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 1152.40(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 26, 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 statements under 49 CFR 1152.29 must be filed by April 6, 1995.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 17, 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: Christopher E. Kaczmarek, 1350 New York Avenue NW., Suite 800, Washington, DC 20005–4797.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

OTVR has filed an environmental report which addresses the abandonment's effects, if any, on the environmental or historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 31, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 20, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. William,

Secretary.

[FR Doc. 95–7443 Filed 3–24–95; 8:45 am]

BILLING CODE 7035–01–M

[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Association for Proximity X-Ray Technology Insertion

Notice is hereby given that, on December 5, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Association for Proximity X-Ray Technology Insertion (the ''Association'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: International Business Machines Corporation, Armonk, NY; AT&T Corp., Basking Ridge, NJ; Motorola Inc., Schaumburg, IL; and Loral Federal Systems Company, Bethesda, MD.

The nature and objective of the Association is to collaborate on research and development of proximity X-ray technology for use in the U.S. semiconductor industry.

The scope of the Association may include '' production of a product, process of service, as referred to in section 2(a)(6) (15 U.S.C. 4301(a)(6)(D)).'' Therefore, pursuant to Section 6(A)(3) (15 U.S.C. 4305(A)(3)) and section 7 (15 U.S.C. 4306) the notification further discloses that: (1) The principal facilities for any production of a product or process are located in the United States or its territories; and (2) each Association member, and each person who controls an Association member, is a United States person as defined in the statute.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–7461 Filed 3–24–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Water Heater Industry Joint Research and Development Consortium

Notice is hereby given that, on February 28, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. (''the Act''), the participants in the Water Heater Industry Joint Research and Development Consortium have filled written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identifies of the parties are: Bradford White Corporation, Ambler, PA; GSW Water Heater Company, Fergus, Ontario CANADA; Rheem Manufacturing Company, New York, NY; Sothcorp USA, Inc., Bala Cynwyd, PA; and State Industries, Inc., Ashland City, TN. The purpose of the cooperative arrangement is to determine whether a gas, residential, bottom fired water heater may be designed or modified to reduce or prevent the ignition of flammable vapors in a contained area without compromising the integrity of the heater, creating hazards, or violating existing safety and energy efficiency standards.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–7462 Filed 3–24–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–30,797]

Ace Comb Company, a Division of Goody Products, Inc., Booneville, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 13, 1955 in response to a worker petition which was filed on March 13, 1995 on behalf of workers at Ace Comb Company (A Division of Goody Products, Incorporated), Booneville, Arkansas.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–30,777). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 14th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7473 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,049]

Hartz Mountain Corporation Harrison, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 1994, applicable to all workers of the subject firm engaged in employment related to the production of aquariums and reflectors.

The certification notice was published in the **Federal Register** on December 16, 1994 (59 FR 65077).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that a few workers were laid off a few weeks before the impact date of June 16, 1993. Accordingly, the Department is amending the certification by deleting the June 16, 1993 impact date and inserting a new impact date of April 1, 1993.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,049 is hereby issued as follows:

All workers of Hartz Mountain Corporation who became totally or partially separated from employment on or after April 1, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 17th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7474 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,049]

Hartz Mountain Corp., Harrison, NJ, Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition TA–W–30,049 which was published in the **Federal Register** on July 19, 1994 (59 FR 36791) in FR Document 94–17395.

This revises the date received and the date of petition on the fifteenth line of the third and fourth columns in the appendix table on page 36791. The date received and the date of petition should both read ''April 1, 1994'' in the third and fourth columns on the fifteenth line of the appendix table.

Singed in Washington, DC., this 20th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7475 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of March, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–30, 680; J.M. Huber Corp., (Engineered Minerals Div), Macon, GA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–30,707; Tidewater, Inc., New Orleans, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–30,655; Lavelle Powder Co., Inc., Butte, MT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–30,712; U.S. Information Agency, Voice of America Bethany Relay Station, Mason, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–30,663; E-Systems, Inc., Greenville Div., Greenville, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–30,646; Enterra Oil Field Rental Co., Odessa, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,791; DLCI USA, Van Buren, ME

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,737; Native Textiles, A Division of Carisbrook Industries, Dallas, PA

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–30,827; Fairchild Aircraft, Inc., San Antonio, TX

A certification was issued covering all workers of the ''electrical shop'' of Fairchild Aircraft, Inc., San Antonio separated on or after March 2, 1994. The foregoing determination does not apply to the other workers at the subject firm.

TA–W–30,803, TA–W–30,804; Mitel, Inc., Mitel Telecommunication Systems, Inc., Mt. Laurel, NJ and Morristown, NJ

A certification was issued covering all workers separated on or after November 6, 1993.

TA–W–30,653; Licensed Clothing Group of America, Saddle Brook, NJ

A certification was issued covering all workers separated on or after January 4, 1994.

TA–W–30,657; JPS Converter and Industrial Corp., Laurens, SC

A certification was issued covering all workers separated on or after January 6, 1993.

TA–W–30,698; Classic Fashion, Paterson, NJ

A certification was issued covering all workers separated on or after February 16, 1995.

TA–W–30,755; Philips Components, Mineral Wells Facility, Mineral Wells, TX

A certification was issued covering all workers separated on or after February 10, 1994.

TA–W–30,665; Cleaver Brooks, A Division of Aqua Chem, Inc., Lebanon, PA

A certification was issued covering all workers separated on or after February 18, 1995.

TA–W–30,624; Orbital Science Corp., Pomona, CA

A certification was issued covering all workers separated on or after December 20, 1993.

TA–W–30,678; Star Fireworks Manufacturing Co., Inc., Danville, IL

A certification was issued covering all workers separated on or after January 5, 1994.

TA–W–30,692; Eveready Battery Co., Inc., Red Oak, IA

A certification was issued covering all workers separated on or after January 17, 1994.

TA–W–30,798; Etowah Manufacturing Co., Inc., Etowah, TN

A certification was issued covering all workers separated on or after February 24, 1994.

TA–W–30,694; Leica, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after March 4, 1995.

TA–W–30,667; Oshkosh B'Gosh, Dover, TN

A certification was issued covering all workers separated on or after January 9, 1994.

TA–W–30,648; Seagull Mid-South, Inc., (Formerly Arkla Exploration Co), Shreveport, LA

A certification was issued covering all workers separated on or after January 6, 1994.

TA–W–30,771; Jantzen, Inc., Statesville, NC

A certification was issued covering all workers separated on or after March 16, 1994.

TA–W–30,709 and A; Contract Manufacturing, Monroe, LA and Monroe Manufacturing, Monroe, LA

A certification was issued covering all workers separated on or after January 23, 1994.

TA–W–30,727, A & B; Takata Fabrication Corp., Piqua, OH, Express Service, Troy, OH and Brownle Personnel Service, Piqua, OH

A certification was issued covering all workers separated on or after February 1, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a) subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of March, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

None.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00359; Contract Apparel, El Paso, TX

A certification was issued covering all workers of Contract Apparel, El Paso, TX separated on or after February 2, 1994.

NAFTA–TAA–00357; Hughes Aircraft, Microelectronics Div., Newport Beach, CA

A certification was issued covering all workers engaged in the production of hybrid microelectronic circuits and assemblies at Hughes Aircraft, Microelectronic Div., Newport Beach, CA separated on or after January 20, 1994. The foregoing determination does not apply to the other workers at the subject firm.

I hereby certify that the aforementioned determinations were issued during the months of March, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 20, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–0783 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–24,446]

Litton Industrial Automation Systems, Inc., New Britain Machine, New Britain, CT, and Operating in the Following State, TA–W–24,446A Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 1990, applicable to all workers of the subject firm. The certification notice was published in the **Federal Register** on August 9, 1990 (55 FR 32504).

At the request of one of the workers, the Department reviewed the certification for workers of the subject firm. The findings show an installation and sales office in Houston, Texas which experienced a decline in demand for its services from the subject firm.

The intent of the Department's certification is to include all workers

who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include the operations in Texas.

The amended notice applicable to TA–W–24,446 is hereby issued as follows:

All workers and former workers of Litton Industrial Automation Systems, Incorporated (New Britain Machine), New Britain, Connecticut and operating in the state of Texas who became totally or partially separated from employment on or after September 10, 1989 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7476 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,154]

Sanofi Bio Industries Wapato, WA; Notice of Revised Determination on Reconsideration

On December 23, 1994, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the former workers of the subject firm. The notice was published in the **Federal Register** on January 4, 1995 (60 FR 481).

Investigation findings show that the workers produced fruit juice concentrate. All production of fruit juice concentrate ceased in November, 1993 when all the workers were laid off.

New findings on reconsideration show that a major customer increased its purchases of imported fruit juice concentrate while substantially decreasing its purchases from Sanofi Bio Industries in 1993.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that workers at Sanofi Bio Industries in Wapato, Washington were adversely affected by increased imports of articles that are like or directly competitive with the fruit juice concentrate previously produced at Sanofi Bio Industries in Wapato, Washington. In accordance with the provisions of the Act, I make the following revised determination for workers of Sanofi Bio Industries in Wapato, Washington.

All workers of Sanofi Bio Industries in Wapato, Washington, who became totally or partially separated from employment on or after July 20, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7477 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,542]

Scott Paper Co., Oconto Falls, WI; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated February 21, 1995, a group of former workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice will soon be published in the **Federal Register.**

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The findings show that the subject plant produced paper towels.

The former workers submitted documentation that Scott Paper is a world-wide company and is increasing its capacity for paper products in Mexico and recently completed a deal to produce paper products in China.

The Department's denial was based on the fact that U.S. imports of sanitary paper products were negligible (less than one percent of U.S. shipments) in the last three years through 1994.

The findings show the worker separations at Scott Paper's Oconto Falls facility were the result of a production transfer to other domestic corporate facilities to realize freight advantages and be closer to geographic market demand.

The Department would entertain a new petition when there is evidence of increased imports of paper towels.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7478 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,169]

Sedco Forex Resources, Inc., A/K/A International Chandlers (a Subsidiary of Schlumberger Technology Corp.) North American Region, U.S. Operations Office, Dallas, Texas and TA–W–27,169A all Other Mobile Marine and Land Based Units and Offices Operating out of/in the State of Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on June 19, 1992, applicable to all workers of the subject firm. The Notice was published in the **Federal Register** on June 30, 1992 (57 FR 29101).

At the request of the workers, the Department reviewed the certification for workers of the subject firm. New findings show that the company changed its name on January 1, 1993 to International Chandlers.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–29,169 is hereby issued as follows:

All workers of the U.S. Operations Office of the North American Region of Sedco Forex Resources, Inc., also known as (A/K/A) International Chandlers, Dallas, Texas (TA–W–27,169) and all other mobile marine and land based units and offices operating out of/in the state of Texas (TA–W–27,169A) who became totally or partially separated from employment on or after April 7, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7479 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–29,742 and TA–W–29,742A]

Sunnyside Coal Co., Sunnyside, Utah and Sunnyside Coal Co, Boulder, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 18, 1994, applicable to all workers of the subject firm. The Notice was published in the **Federal Register** on August 26, 1994 (59 FR 44193).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show worker separations in 1994 at the subject firm's headquarters in Boulder, Colorado.

Accordingly, the Department is amending the certification to include the subject firm's workers at Boulder, Colorado.

The amended notice applicable to TA–W–29,742 is hereby issued as follows:

All workers of Sunnyside Coal Company, Sunnyside, Utah and Boulder, Colorado who became totally or partially separated from employment on or after March 24, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 14th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7480 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,378]

Texaco Exploration and Production, Inc., Tulsa, OK and Texaco Exploration Production, Inc., Operating at Various Locations in the Following States: et al., Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 1994, applicable to the workers of the subject firm. The certification was published in the **Federal Register** on December 16, 1994 (59 FR 65077). The certification was subsequently amended on December 16, 1994. The amended certification was published in the **Federal Register** on January 4, 1995 (60 FR 481).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred in the State of Kansas.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of Texaco Exploration and Production, Inc., who were adversely affected by increased imports of crude oil.

The amended notice applicable to TA–W–30,378 is hereby issued as follows:

All workers of Texaco Exploration and Production, Inc., located in Tulsa, Oklahoma and at all locations in the following states listed below engaged in the exploration and production of crude oil, natural gas liquids and natural gas who became totally or partially separated from employment on or after October 3, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–30,378A Alabama
TA–W–30,378C Colorado
TA–W–30,378E Illinois
TA–W–30,378G Mississippi
TA–W–30,378I North Dakota
TA–W–30,378K Texas
TA–W–30,378M Wyoming
TA–W–30,378B California
TA–W–30,378D Idaho
TA–W–30,378F Louisiana
TA–W–30,378H New Mexico
TA–W–30,378J Oklahoma (exc Tulsa)
TA–W–30,378L Washington
TA–W–30,378N Montana
TA–W–30,378O Kansas

Signed at Washington, DC., this 16th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7481 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,361]

Wailuku Agribusiness Co., Inc., Pineapple Division, Wailuku, HI; Revised Determination on Reconsideration

On February 10, 1995, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on February 27, 1995 (60 FR 9409).

The findings show that the workers produce pineapples and macadamia nuts with pineapples being the preponderant portion of sales. The findings show that sales and production of pineapples declined in the first nine months of 1994 compared to the same period in 1993. Substantial worker separations occurred in 1994.

New findings on reconsideration show that all the pineapples grown and harvested are sold to an exclusive purchaser whose workers are under a trade adjustment assistance certification. By virtue of the fact that there is only one customer, the customer exercised *de facto* control over the production, sales and employment of pineapples at the subject firm. Accordingly, the workers meet the Department's standard of a reduced demand for their products from a parent or controlling firm whose workers produce an article and are currently under a certification for TAA.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers and former workers of Wailuku Agribusiness Company, Inc., Pineapple Division, Wailuku Hawaii were adversely affected by increased imports of articles like or directly competitive with pineapples.

Accordingly, in accordance with the provisions of the Act, I make the following certification:

All workers of Wailuku Agribusiness Company, Inc., in Wailuku, Hawaii who became totally or partially separated from employment on or after September 14, 1993 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 14th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7482 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA—00293 And NAFTA—00293A]

Wirekraft Industries, Inc. Mishawaka, IN; and Wirekraft Industries, Inc., Burcliff Industries Marion, OH; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on December 29, 1994, applicable to all workers of the subject firm.

The Department, on its own motion, reviewed the certification for workers of the subject firm. New findings show that Wirekraft workers in Marion, Ohio also

produce wire harnesses and had decreased sales and production and employment declines in the relevant period.

Other findings show that a major customer of Wirekraft is importing wire harnesses from Mexico in the relevant period.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

Accordingly, the Department is amending the Mishawaka, Indiana certification to include workers at Marion, Ohio.

The amended notice applicable to NAFTA—00293 is hereby issued as follows:

All workers of the Wirekraft Industries, Inc., Mishawaka, Indiana and Wirekraft Industries' Burcliff Industries in Marion, Ohio who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 95–7484 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA—00362]

Wirekraft Industries, Inc., Burcliff Industries, Marion, OH; Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–AA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on February 9, 1995 in response to a petition filed on behalf of workers at Wirekraft Industries, Inc.—Burcliff Industries in Marion, Ohio. On March 16, 1995 an amendment was made to NAFTA–TAA–00293 to include all workers of Wirekraft Industries, Inc.—Burcliff Industries in Marion, Ohio. Because the subject workers have been included in the amendment certification of NAFTA–TAA–00293, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 17th day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7485 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 17–95

Public Law 103–465, commonly known as the legislation on ''GATT''—The General Agreement on Tariffs and Trade, included a provision that affects the Federal-State unemployment compensation program. Under this legislation, States will be required to deduct and withhold Federal income tax from unemployment compensation if the individual so elects. In addition, State will have the option of withholding State and local income taxes from unemployment compensation if the individual elects to have such actions taken. This UIPL explains the change in unemployment compensation law, discusses its effective date and provides model language for States to use in amending State unemployment compensation law.

Dated: March 17, 1995.

Doug Ross,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, DC 20210

Classification UI
Correspondence Symbol TEURL
Date: February 28, 1995
Directive: Unemployment Insurance Program Letter No. 17–95
To: All State Employment Security Agencies
From: Mary Ann Wyrsch, Director, Unemployment Insurance Service
Subject: Withholding of Income Tax From Unemployment Compensation—Amendments Made by Public Law 103–465

1. *Purpose.* To advise State agencies of the provisions of Public Law (P.L.) 103–465 pertaining to the withholding of Federal, State and local income taxes from unemployment compensation (UC).

2. *References.* The Internal Revenue Code of 1986 (IRC), as amended, including the Federal Unemployment Tax Act (FUTA); Title III of the Social Security Act (SSA); Section 702 of P.L. 103–465; Section 301 of P.L. 102–318; 31 U.S.C. Section 6503 as amended by P.L. 101–453; 31 C.F.R. Part 205; and Unemployment Insurance Program Letters (UIPLs) 25–89, 45–89 and 45–92.

3. *Background.* On December 8, 1994, the President signed into law P.L. 103–465. Although the short title of this law is the ''Uruguay Round Agreements Act,'' it is commonly known as the legislation on ''GATT''—the General Agreement on Tariffs and Trade. Under this legislation, States will be required to deduct and withhold Federal income tax from UC if the individual so elects. In addition, States will have the option of withholding State and local income taxes if the individual so elects. This UIPL addresses these new provisions pertaining to income tax withholding.

Rescissions: None.

Expiration Date: February 28, 1996.

4. *Discussion.*

a. *In General.* The ''withdrawal standard'' of Section 3304(a)(4), FUTA, and Section 303(a)(5), SSA, limits withdrawals (with specified exceptions not relevant here) from a State's unemployment fund to payments of ''compensation.'' The term ''compensation'' is defined in Section 3306(h), FUTA, as ''cash benefits payable to individuals with respect to their unemployment.'' Due to its restrictive nature, the withdrawal standard has prohibited States from deducting and withholding any form of income tax from payments of UC. For a detailed discussion of the limitations on the use of unemployment fund moneys, refer to UIPL 25–89 (54 FR 22973 (May 30, 1989)) which transmitted the Secretary's decision in a conformity proceeding involving the deducting and withholding of State UC taxes from UC and UIPL 45–89 (55 FR 1886 (January 19, 1990)) concerning permissible deductions from UC.

P.L. 103–465 amends Federal law to provide for ''voluntary withholding''—that is, withholding at the taxpayer's election—of income taxes from a variety of payments made pursuant to Federal

law as well as from UC. The joint Senate report describes the reason for this withholding:

Some taxpayers find it burdensome to make quarterly estimated tax payments. These taxpayers may find it more convenient to elect to have Federal taxes withheld at the time specified payments are made to them. [S. Rep. No. 412, 103rd Cong. 2d Sess. 137–138 (1994).]

b. *Discussion of Amendments.* Section 702(b) of P.L. 103–465 amended Federal law to require State law to provide for the voluntary withholding of Federal income tax from UC. Specifically, new paragraph (18) of Section 3304(a), FUTA, was added to require, as a condition for employers in a State to receive credit against the Federal unemployment tax, that:

Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntary requests such deduction and withholding.

Section 702(c) of P.L. 103–465 also amended the withdrawal standard of FUTA and SSA (and the definition of ''unemployment fund'' in Section 3306(f), FUTA) to permit ''the withholding of Federal, State, or local individual income tax.'' [1] As amended, the withdrawal standard in Section 3304(a)(4)(C), FUTA, now reads: nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor * * *.

Section 303(a)(5), SSA, also reads similarly. These amendments to the withdrawal standard and the definition of ''unemployment fund'' have an effect on the new voluntary withholding requirement of Section 3304(a)(18), FUTA. Under the withdrawal standard amendments, any deducting and withholding from UC may be made only if ''such deduction was made under a program approved by the Secretary of Labor.'' The requirements necessary for approval of a program are contained in item 4.e of this UIPL.

[1] The amendment to the definition of ''unemployment fund'' also contained a technical amendment concerning the exception pertaining to the withholding of health insurance premiums. This exception was already contained in the withdrawal standard. Another technical amendment renumbered old subparagraph (18) of Section 3304(a), FUTA, as (19).

c. *Withholding of Federal Income Tax.* New IRC Section 3402(p)(2), which was added by Section 702(a) of P.L. 103–465, concerns voluntary withholding of UC and affects the FUTA and SSA provisions concerning deducting and withholding income tax. This section applies to payments of UC ''as defined in section 85(b),'' IRC. Section 85(b) defines UC as ''any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.'' The effect of this definition is that, if the payment of UC is taxable under the IRC, then the State must provide for voluntary withholding of Federal tax from that amount.

Section 3402(p)(2), IRC, also provides that the amount of Federal income tax withheld from UC ''under this chapter [Chapter 24 of the IRC, Collection of Income Tax at Source on Wages] * * * shall be an amount equal to 15 percent of such payment.'' As a result, the amount of Federal income tax to be withheld from UC by the States must be equal to 15 percent of the UC payment.

Since Section 3402(p)(2), IRC, is administered by the Federal Internal Revenue Service (IRS), the IRS has the authority to interpret these provisions.

d. *Withholding of State and Local Income Taxes.* States will decide whether to allow State and/or local income taxes to be deducted and withheld from UC at an individual's election. A State may decide to deduct and withhold only State income taxes, only local income taxes, both, or neither. It is left to the State to decide whether the percentage of the payment to be deducted and withheld shall be a uniform amount established by the State law or determined by the individual. The mechanisms for transferring amounts deducted and withheld from the unemployment fund to the State or locality will also be established by the State, subject to the requirements of items e.(2) and e.(3) below.

Although a State has the authority to deduct and withhold State and local income taxes from UC for other States and for localities outside the State, Federal law does not require a State to do so. A State may, therefore, restrict the taxes to be deducted and withheld to taxes subject to its laws or to individuals who plan to file a tax return against that State.

e. *Approved Program.* As noted in item 4.b, the amendments to the withdrawal standard concerning the withholding of income tax require that any deduction must be made under a program approved by the Secretary. Rather than requiring each State to submit a plan describing its program, the Department has determined that States using the draft legislative language contained in Attachment II to this UIPL may consider their withholding programs to be automatically approved. (States are free to delete optional language, such as that pertaining to State and local taxes and to make nonsubstantive modifications, including taking into account State usage and formatting.) States not using the draft language will need to submit a plan describing its program to the appropriate regional office.

The following necessary elements of the program are discussed within the context of the draft language:

(1) *Notification.* Section 301 of P.L. 102–318, the Unemployment Compensation Amendments of 1992, already requires State agencies to provide to each individual filing a claim a written explanation of Federal and State income taxation of UC and the requirements pertaining to estimated tax payments. See UIPL 45–92 (57 Fed. Reg. 47871, 47875–47876 (October 20, 1992)). To assure that the individual has the opportunity to have amounts withheld from all payments, the individual is to be advised in writing at the time of filing the initial claim that UC is subject to Federal income tax as well as (if applicable) State and local income taxes; that requirements exist pertaining to estimated tax payments; and that income tax may be withheld at the individual's option.[2] States will need to revise their initial claims processes to obtain information concerning whether the individual elects or declines to have income tax withheld.

Section (1) of the draft language addresses notification and other matters. It permits the deduction and withholding of Federal, State and local income taxes. The general reference in Section (1)(C) to the IRC assures that State law will always correspond to whatever percentage Federal law authorizes for deductions. Since the States are not required to deduct and withhold State and local income taxes from UC, the draft language pertaining to such withholding is at the State's option. The language permits specified percentages of State and local income taxes to be withheld under State law

[2] UIPL 45–92 interpreted the notice requirement of Section 301 of P.L. 102–318 to provide that the information ''must be provided at the time the initial claim is filed or at the time the individual files a claim for the first week.'' UIPL 45–92 also provided that the notice requirement would be satisfied if the information was provided at the time of the first payment. Once Section 3304(a)(18), FUTA, becomes effective, this position becomes obsolete as the notice must be given at the time of filing the initial claim.

since this method will likely be the easiest to administer. The State may, however, modify the draft language to allow the individual the option of electing the percentage or dollar amount to be deducted and withheld. As discussed in item 4.d. above, the State may also add language restricting the State and local withholding option.

The final issue addressed in Section (1) is the individual's option to change withholding status. The individual's anticipated tax liabilities may change due to, for example, a change in the tax year or due to work performed during the benefit year, or the individual may determine that amounts being withheld are needed to meet current living expenses. Therefore, individuals must also be notified of and provided an opportunity to change their withholding status.

Although the Department encourages States to allow the individual to change his or her withholding status several times, it will only require the States to permit this change at least once during each benefit year. States are not required to amend their continued claims forms or processes to accommodate this change in withholding. Instead, it will be sufficient for the agency to notify the individual at the time of filing the initial claim that withholding status may be changed at the individual's request.

Section (1)(G) of the draft language permits an unlimited number of changes by the claimant. The State may, however, modify the language to restrict the number of changes to any number greater than or equal to one.

(2) *Amounts to Remain in Unemployment Fund until Transferred to Taxing Authority.* Amounts deducted and withheld from unemployment compensation must remain in the State's unemployment fund until transferred to the Federal, State or local taxing authority as a payment of income tax. Such amounts will remain in the State's account in the Unemployment Trust Fund (UTF) until such time as they are drawn down to the State's benefit payment account in accordance with the State's agreement implementing 31 U.S.C. 6503, as amended by the Cash Management Improvement Act of 1990, P.L. 101–453, and the implementing regulations at 31 CFR Part 205.

The Department is currently exploring an alternative to the draw down approach with the U.S. Department of the Treasury. Under this alternative, amounts deducted and withheld would be transferred directly from the State's account in the UTF to the IRS.

(3) *Federal Procedures.* The State must follow all procedures specified by this Department and the IRS related to withholding.

The inclusion of the provision in Section (3) of the draft language assures the Department that States will comply with any IRS procedures concerning the deducting and withholding of Federal income tax. It also gives States the authority to follow any procedures concerning deducting and withholding income tax which the Department or IRS may at some future date deem necessary. States may change the reference to ''commissioner'' to reference the title of the appropriate State official or agency.

(4) *Priorities.* Since UC overpayments, child support obligations and food stamp overissuances may also be deducted and withheld from UC, States will need to address the priority of withholding when the claimant also elects to have income tax withheld. The Department has previously left to the States the matter of determining priorities when there are two or more deductions made from UC. The Department is currently discussing with the IRS whether the provisions of the IRC which it administers have any bearing on this issue.

Since the issue of priority of withholding has not yet been resolved, Section (4) of the draft language provides that the priority for deductions from UC shall be determined in accordance with State regulations. This will permit the State to accommodate any Federal position on this matter.

f. *Funding.* Costs incurred in withholding Federal, State or local income taxes from UC administrative grants provided under Section 302, SSA.

g. *Effective Date.* Under subsection (d) of Section 702 of P.L. 103–465, the provisions of that section relating to voluntary withholding ''shall apply to payments made after December 31, 1996.'' This means that, as of January 1, 1997, States must have provisions of law in effect providing for the voluntary withholding of Federal income tax and must be permitting the withholding Federal income tax in accordance with this UIPL.

States should note that the effective date refers to ''payments.'' Therefore, as of January 1, 1997, amounts are to be deducted and withheld from payments of UC for Federal income tax, if the individual so elects, even if the payment is for a week of unemployment beginning before January 1, 1997.

States may not implement the withholding of Federal, State or local income taxes prior to January 1, 1997, since the withdrawal standard's limitations remain in effect until that date. We recommend, however, that States advise individuals filing new claims in the fourth calendar quarter of 1996 that voluntary holding will become available and that the State would, if the claimant so elected, begin deducting and withholding of income taxes as for payments made on and after January 1, 1997.

5. *Action Required.* States must take appropriate action to assure legislation authorizing the voluntary withholding of Federal income tax is enacted by and implemented on January 1, 1997. As noted above in item 4.e., States not enacting legislation using the draft language attached to this UIPL will need to submit a plan to the appropriate Regional Office. To provide adequate time for review and comment, these plans are due on September 30, 1996.

6. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

7. *Attachments.*

I. Relevant Sections of P.L. 103–465
II. Draft Language to Implement a Voluntary Withholding Program

Attachment I—Relevant Sections of P.L. 103–465

An Act to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

Section 1. Short Title and Table of Contents.

(a) SHORT TITLE.—This Act may be cited as the ''Uruguay Round Agreements Act''.

* * * * *

TITLE VII—REVENUE PROVISION

Subtitle A—Withholding Tax Provisions

* * * * *

Sec. 702 Voluntary Withholding on Certain Federal Payments and on Unemployment Compensation.

(a) IN GENERAL.—Subsection (p) of section 3402 (relating to voluntary withholding agreements) is amended to read as follows:

''(p) VOLUNTARY WITHHOLDING AGREEMENTS.—

''(1) CERTAIN FEDERAL PAYMENTS.—

''(A) IN GENERAL.—If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

''(B) AMOUNT WITHHELD.—The amount to be deducted and withheld

under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7, 15, 28, or 31 percent or such other percentage as is permitted under regulations prescribed by the Secretary.

''(C) SPECIFIED FEDERAL PAYMENTS.—For purposes of this paragraph, the term 'specified Federal payment' means—

''(i) any payment of a social security benefit (as defined in section 86(d),

''(ii) any payment referred to in the second sentence of section 451(d) which is treated as insurance proceeds,

''(iii) any amount which is includible in gross income under section 77(a), and

''(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.''

''(D) REQUESTS FOR WITHHOLDING.—Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

''(2) VOLUNTARY WITHHOLDING ON UNEMPLOYMENT BENEFITS.—If, at the time a payment of unemployment compensation (as defined in section 85(b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 15 percent of such payment.

''(3) AUTHORITY FOR OTHER VOLUNTARY WITHHOLDING.—The Secretary is authorized by regulations to provide for withholding—

''(A) from remuneration for services performed by an employee for the employee's employer which (without regard to this paragraph) does not constitute wages, and

''(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter, if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulation prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.''

(b) STATE LAW MUST PERMIT VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX FROM UNEMPLOYMENT COMPENSATION.—Section 3304(a) is amended by striking ''and'' at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

''(18) Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding; and''.

(c) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION OF FEDERAL, STATE, AND LOCAL INCOME TAXES PERMITTED.—

(1) Subparagraph (C) of section 3304(a)(4) is amended by inserting after ''health insurance'' the following: '', or the withholding of Federal, State, or local individual income tax,''.

(2) Subsection (f) of section 3306 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;''.

(3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after ''health insurance'' the following: '', or the withholding of Federal, State, or local individual income tax,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996.

Attachment II—Draft Language to Implement a Voluntary Withholding Program

(1) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, be advised that:

(A) Unemployment compensation is subject to Federal, State and local income tax;

(B) Requirements exist pertaining to estimated tax payments;

(C) The individual may elect to have Federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the Federal Internal Revenue Code;

(D) The individual may elect to have State income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of ____ percent;

(E) The individual may elect to have local income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of ____ percent; and

(F) The individual may elect to have State and local income taxes deducted and withheld from the individual's payment of unemployment compensation for other States and localities outside this State at the percentage established by such State or locality.

(G) The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the unemployment fund until transferred to the Federal, State or local taxing authority as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the Federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.

[FR Doc. 95–7487 Filed 3–24–95; 8:45 am]
BILLING CODE 4510–30–M

Employment and Training Administration

Job Training Partnership Act (JTPA), Title IV–D, Demonstration Program: Diversity in Apprenticeship; Correction

AGENCY: Employment and Training Administration, DOL.

ACTION: Correction.

SUMMARY: In notice document FR Doc. 95–6660 beginning on page 14454 in the issue of Friday, March 17, 1995, make the following correction:

On page 14454, second column, **DATES:** The closing date for receipt of applications was left out inadvertently. This should read: **DATES:** Applications for grant awards will be accepted commencing March 17, 1995. The closing date for receipt of applications is May 1, 1995, 2 p.m., (Eastern Time) at the address below.

Dated: March 21, 1995.

Janice E. Perry

Grant Officer, Division of Acquisition and Assistance.

[FR Doc. 95–7486 Filed 3–24–95; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–025]

NASA Advisory Council (NAC), Aeronautics Advisory Committee, Subcommittee on Human Factors; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 60 FR 9700, Notice Number 95–021, February 21, 1995.

PREVIOUSLY ANNOUNCED DATES OF MEETING: March 29, 1995, March 30, 1995, and March 31, 1995. Meeting has been canceled.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory W. Condon, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604–5567.

Dated: March 20, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 95–7454 Filed 3–24–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information and collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission: Revision.

2. The title of the information collection: 10 CFR part 34. ''Licenses for Radiography and Radiation Safety requirements for Radiographic Operations'' and NRC Form 313, Application for Material License.

3. The form number, if applicable: NRC Form 313.

4. How often the collection is required. On occasion, such as upon submittal of an application for a materials license or renewal, or upon discovery of a leaking source.

5. Who will be required to report: Licensees and applicants requesting approvals in accordance with 10 CFR part 34.

6. An estimate of the number of responses: Part 34—700, NRC Form 313—700.

7. An estimate of the total number of hours needed annually to complete the requirement or request: Part 34—1,490 hours for reporting (approximately 2 hours per response) plus an additional 58,835 hours for recordkeeping (approximately 84 hours per licensee): NRC Form 313—9,100 hours for 700 licensees (approximately 13 hours per response). The total burden is 69,425 hours.

8. An indication of whether Section 3504(h). Pub. L. 96–511 applies: Applicable.

9. Abstract: NRC regulation, 10 CFR part 34, specifies the information and data to be provided by applicants and licensees using byproduct material for industrial radiography. The 10 CFR part 34 is being revised in its entirety. The revision will add to or modify the requirements to include additional training of radiographers' assistants., leak tests of ''S'' tubes, and specifies records to be kept at various locations. The revision will require the following additional information to be reported on NRC Form 313, Application for Materials.

License: Locations and descriptions of all field stations and permanent radiographic installations, designation of a Radiation Safety Officer, and additional information on training and testing. This information is reviewed by NRC to ensure that the safety of radiographers and the public is protected.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW (Lower Lever), Washington, DC 20037.

Comments and questions should be directed to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0007 and 3150–0120), NEOB–10202, Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone (202) 395–3084. The NRC Clearance Officer is Brenda Jo Shelton. (301) 415–7230.

Dated at Rockville, Md, this 16th day of March 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–7433 Filed 3–24–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: ''Proposed Rule, 10 CFR part 2: Petition for Rulemaking; Procedure for Submission.''

3. The form number if applicable: Not Applicable.

4. How often is the collection required: On occasion.

5. Who will be required or asked to report: Persons who choose to submit more detailed supporting information in the petition than required in the current 10 CFR 2.802(c).

6. An estimate of the number of annual responses: Five.

7. An estimate of the number of hours needed annually to complete the requirement or request: 2,500 (an average of 500 hours per response).

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Applicable.

9. Abstract: The proposed amendment to the regulations pertaining to petition for rulemaking would provide incentive to submit sufficient supporting information in petitions to facilitate more expeditious disposition by the NRC, and would also improve openness of the petition for rulemaking process by delineating priorities for review of the petitions.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L

Street, NW (Lower Level), Washington, DC 20555–0001.

Comments and questions can be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0136), NEOB–10202, Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Md., this 21st day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–7434 Filed 3–24–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co., Quad Cities Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–29 and DPR–30, issued to Commonwealth Edison Company (ComEd, the licensee) for operation and Iowa-Illinois Gas and Electric Company (IIGEC) for possession of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the operating license to reflect the transfer of IIGEC's 25 percent ownership in Quad Cities, Units 1 and 2, through the merger of IIGEC, MidAmerican Energy Company (MidAmerican), Midwest Power Systems Inc. and Midwest Resources Inc., with MidAmerican as the surviving entity from the merger. Quad Cities is operated by ComEd on behalf of IIGEC. Commonwealth Edison Company, alone, is licensed to operate Quad Cities, Units 1 and 2. The proposed action is in accordance with ComEd's application dated February 23, 1995.

The Need for the Proposed Action

The proposed action is required to reflect the ownership change discussed above. The amendment reflecting the transfer of IIGEC's interest in the license will have minimal impact on the operation of the facility by ComEd. The transfer and amendment will not affect the facility's Technical Specifications, license conditions, or the organization and practices of ComEd.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed license amendment and concludes that there will be no changes to Quad Cities, Units 1 and 2, or the environment as a result of this action. The transfer of IIGEC's possession-only interest in the license and the associated license amendment will not affect the numbers, qualifications, or organizational affiliation of the personnel who operate the facility, as ComEd will remain the holder of the operating license and continue to be responsible for the operation of Quad Cities, Units 1 and 2.

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability or consequences of accidents would not be increased by the transfer of ownership, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the transfer of ownership would not affect routine radiological plant effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the transfer of ownership would not affect nonradiological plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative would be to deny the requested approval. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are identical.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and consulted with the Illinois State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing 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 license amendment.

For further details with respect to this action, see the licensee's submittal 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 Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois.

Dated at Rockville, Md., this 21st day of March 1995.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–7435 Filed 3–24–95; 8:45 am]

BILLING CODE 7590–01–M

Proposed Generic Letter; Pressure Locking and Thermal Binding of Safety-Related Power-Operated Gate Valves

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter regarding pressure locking and thermal binding of safety-related power-operated gate valves. This proposed generic letter is intended to ensure that addressees have performed or will perform evaluations, and as appropriate, analyses and/or corrective actions to ensure that safety-related power-operated gate valves that may be susceptible to pressure locking or thermal binding are capable of performing their required safety functions. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of

the proposed generic letter presented under the Supplementary Information heading. This generic letter and supporting documentation were discussed in meeting number 268 of the Committee to Review Generic Requirements (CRGR) on January 24, 1995. The staff incorporated the changes requested by CRGR plus information concerning two recent events and obtained CRGR endorsement. The relevant information that was sent to the CRGR to support their review of the proposed generic letter will be placed in the Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the Public Document Room.

DATES: Comment period expires April 26, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas G. Scarbrough, (301) 415–2794.

SUPPLEMENTARY INFORMATION: NRC Generic Letter 95–XX: Pressure Locking and Thermal Binding of Safety-Related Power-Operated Gate Valves.

Addresses

All holders of operating licenses or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to request that addressees perform, or confirm that they already have performed, (1) evaluations of operational configurations of safety-related power-operated (including motor, air, and hydraulic-operated) gate valves for susceptibility to pressure locking and thermal binding, and (2) further analyses, and any needed corrective actions, to ensure that safety-related power-operated gate valves that are susceptible to pressure locking or thermal binding are capable of performing their required safety functions.

NRC previously provided guidance on an acceptable approach for addressing pressure locking and thermal binding of MOVs in Supplement 6 to Generic Letter (GL) 89–10, ''Safety-Related Motor-Operated Valve Testing and Surveillance,'' but did not request specific actions by licensees to address these problems at that time. This letter confirms (as was indicated earlier in Supplement 6) that licensees are expected under existing regulations to take actions to ensure that safety-related power-operated gate valves susceptible to pressure locking or thermal binding are capable of performing their required safety functions. The guidance in Attachment 1 to this letter is derived directly from (and is intended to be the same as) the guidance provided in Enclosure 1 to GL 89–10, Supplement 6; except, in this generic letter, (1) the guidance is being issued as an approved generic NRC staff position for implementation by licensees who have not already satisfactorily addressed pressure locking and thermal binding of MOVs by implementing the guidance in Supplement 6 (or equivalent industry methods); and (2) the guidance is also intended for adaptation and implementation by all licensees, to address the pressure-locking and thermal-binding phenomena in other types of power-operated (i.e., air and hydraulic-operated) gate valves, as well as MOVs. Finally, for both MOVs and other power-operated valves, this letter requires that licensees submit for staff review summary information regarding any actions taken to ensure that valves susceptible to pressure locking or thermal binding are capable of performing their required safety functions, including (a) actions taken by licensees on their own volition to implement the guidance provided in Supplement 6 (or equivalent industry methods), as well as (b) actions taken in response to this letter. (No response was required from licensees in Supplement 6 to GL 89–10 regarding pressure locking and thermal binding.)

In this generic letter, the NRC staff is requesting a preliminary evaluation of pressure locking and thermal binding of safety-related power-operated gate valves, and, subsequently, a more detailed evaluation and resolution of the issue.

Background

The NRC staff and the nuclear industry have been aware of disc binding problems of gate valves for many years. The industry has issued several event reports describing failure of safety-related gate valves to operate due to pressure locking or thermal binding of the valve discs. Several generic industry communications have given guidance for both identifying susceptible valves and performing appropriate preventive and corrective measures. Despite industry awareness of the problem, pressure locking and thermal binding events continue to occur. In addition to events at U.S. nuclear power plants, French experience with pressure locking events was recently documented in NUREG/CP–0137 (July 1994), ''Proceedings of the Third NRC/ASME Symposium on Valve and Pump Testing.''

In GL 89–10 (June 28, 1989), the staff asked holders of operating licenses and construction permits to provide additional assurance of the capability of safety-related MOVs and certain other MOVs in safety-related systems to perform their safety-related functions by reviewing MOV design bases, verifying MOV switch settings initially and periodically, testing MOVs under design-basis conditions where practicable, improving evaluations of MOV failures and necessary corrective action, and trending MOV problems. In Enclosure 1 to Supplement 6 to GL 89–10 (March 8, 1994), the NRC staff described one acceptable approach for licensees to address pressure locking and thermal binding of motor-operated gate valves.

In March 1993, the NRC issued NUREG–1275, Volume 9, ''Pressure Locking and Thermal Binding of Gate Valves.'' This NUREG give the history of pressure locking and thermal binding events, describes the phenomena, discusses the consequences of locking or binding on valve functionality, summarizes preventive measures, and assesses the safety significance of the phenomena. Pressure locking or thermal binding can cause a power-operated valve to fail to open, resulting in an inability of the associated safety train or system to perform its safety function. Pressure locking and thermal binding represent potential common-cause failure modes that can render redundant trains of certain safety-related systems or multiple safety systems incapable of performing their safety function. Such failures may not be self-revealing through existing surveillance tests or normal operating cycles.

Description of Circumstances

After issuing Volume 9 of NUREG–1275, the NRC staff discussed pressure locking and thermal binding with several licenses (1) to gather information on the technical issues related to generic and plant-specific valve and system characteristics, and (2) to determine the implementation status of prior industry guidance for identification of susceptible valves and application of preventive and corrective measures. NRC surveys indicated that some licensees have performed multiple reviews of pressure locking and thermal binding. However, the staff found only limited instances of valves being modified to alleviate the effects of pressure locking and thermal binding.

In Enclosure 1 to Supplement 6 of GL 89–10, the NRC staff reminded licensees that they are expected under existing regulations to take actions to ensure that safety-related power-operated gate valves susceptible to pressure locking or thermal binding are capable of performing their required safety functions, and described an acceptable approach for licensees and permit holders to address pressure locking and thermal binding of motor-operated gate valves as part of their GL 89–10 programs. The information on pressure locking and thermal binding of motor-operated gate valves provided in Enclosure 1 to Supplement 6 of GL 89–10 was intended as timely notification of operating experience feedback. During inspections of GL 89–10 programs, the staff found the actions taken by licensees to address pressure locking and thermal binding of motor-operated gate valves to be varied. Although many licensees had conducted some level of review of the potential for pressure locking and thermal binding of their motor-operated gate valves, few licensees had either (1) thoroughly evaluated the capability of the motor actuators to overcome the phenomena, or (2) taken corrective action to prevent the phenomena as discussed in Supplement 6. In view of these inspection results, the NRC staff has determined that further action (i.e., this generic letter) is now warranted to ensure that safety-related power-operated gate valves susceptible to pressure locking or thermal binding are capable of performing their required safety functions.

Most licensees are nearing completion of their GL 89–10 programs. In meetings with industry representatives and licensees, the staff stated that, during its closure review, it will assess the progress being made by licensees in addressing pressure locking and thermal binding of motor-operated gate valves. The staff also stated that licensees need not complete their response to the pressure locking and thermal binding issue at the time that the verification of the design-basis capability of MOVs within the scope of GL 89–10 is completed because the staff would evaluate the acceptability of addressee resolution to pressure locking and thermal finding of all safety-related power-operated gate valves, including MOVs, in a consolidated effort (via this generic letter). Finally, the staff stated that this generic letter would address the schedule for completing the licensees' response to the pressure locking and thermal binding issue.

The NRC staff held a public workshop on February 4, 1994, to discuss pressure locking and thermal binding of gate valves, including prioritization of susceptible valves for corrective action. A summary of the public workshop is available in the NRC Public Document Room and contains information on evaluation of pressure locking and thermal binding, and actions taken in response to the identification of susceptible valves.

On February 28, 1995, NRC issued Information Notice (IN) 95–14, ''Susceptibility of Containment Sump Recirculation Gate Valves to Pressure Locking.'' This information notice alerted licensees to a report from Northeast Nuclear Energy Company, the licensee for Millstone Nuclear Power Station, Unit 2, that both containment sump recirculation motor-operated gate valves might experience pressure locking during a design-basis loss-of-coolant accident and fail in the closed position. On March 15, 1995, NRC issued IN 95–18, ''Potential Pressure-Locking of Safety-Related Power-Operated Gate Valves.'' This information notice alerted licensees to a report from Connecticut Yankee Atomic Power Company, the licensee for Haddam Neck Nuclear Power Plant, that seven motor-operated gate valves in the safety injection systems were susceptible to pressure-locking to the extent that the operability of the valves may have been jeopardized.

Discussion

The pressure locking and thermal binding phenomena are based on well-known concepts. The identification of susceptible valves and the determination of when the phenomena might occur requires a thorough knowledge of components, systems, and plant operations. Pressure locking occurs in flexible-wedge and double-disc gate valves when fluid becomes pressurized within the valve bonnet and the actuator is not capable of overcoming the additional thrust requirements resulting from the differential pressure created across both valve discs by the pressurized fluid in the valve bonnet. For example, the fluid may enter the valve bonnet (1) during normal open and close valve cycling, (2) when a fluid differential pressure across a disc causes the disc to move slightly away from the seat, creating a path to either increase the fluid pressure or fill the bonnet with fluid, or (3) for a steamline valve, when differential pressure exists across the disc and the valve orientation permits condensate to collect and enter the bonnet. Surveillance testing can cause a valve to experience pressure locking or thermal binding. For example, an inboard isolation MOV in the reactor core isolation cooling (RCIC) system steamline at a boiling-water reactor (BWR) plant failed in the closed position following routine surveillance testing. Pressure locking and thermal binding may occur in varying degrees but may not, in all cases, render a valve incapable of operating, though a delay in valve stroke time or valve damage may occur.

Various plant operating conditions can introduce pressure locking. Valve bonnet pressure might be higher than anticipated, causing pressure locking under certain conditions. For example, when (1) the gate valve is in a line connected to a high-pressure system and isolated only by check valves (which may transmit pressure even when passing leak-tightness criteria) and (2) bonnet volume temperature increases, pressurization results from thermal expansion of the confined fluid. Valve bonnet temperature might increase in response to heatup during plant operation, ambient air temperature rise due to leaking components or pipe breaks, or thermal conduction or convection through connected piping. Over time, bonnet pressure could decay by leakage past the seating surfaces or stem packing. However, the depressurization time may be longer than the system response time to initiate valve actuation to perform its safety function. Also, valve actuator operation at locked rotor conditions for a few seconds could degrade the motor torque capability of a motor-operated gate valve.

Thermal binding is generally associated with a wedge gate valve that is closed while the system is hot and then allowed to cool before attempting to open the valve. Mechanical interference occurs because of different expansion and contraction characteristics of the valve body and

disc materials. Thus, reopening the valve might be prevented until the valve and disc are reheated. Solid-wedge gate valves are most susceptible to thermal binding. However, flexible-wedge gate valves with a high temperature gradient across the discs may experience thermal binding.

Pressure locking or thermal binding occurs as a result of the valve design characteristics (wedge and valve body configuration, flexibility, and material thermal coefficients) when the valve is subjected to specific pressures and temperatures during various modes of plant operation. Operating experience indicates these situations were not always considered as part of the design basis for valves in many plants.

Requested Actions

Within 60 days of the date of this generic letter, each addressee of this generic letter is requested to perform and complete the following actions:

1. Evaluate (in at least a preliminary manner) the operational configurations of all safety-related power-operated (i.e., motor-operated, air-operated, and hydraulic-operated) gate valves to identify those valves that are potentially susceptible to pressure locking or thermal binding; and

2. Document a basis for the operability of the potentially susceptible valves or, where operability cannot be supported, take action in accordance with the Technical Specifications.

Within 180 days of the date of this generic letter, each addressee of this generic letter is requested to implement and complete the guidance provided in Attachment 1 to perform the following actions:

1. Evaluate the operational configurations of safety-related power-operated (i.e., motor-operated, air-operated, and hydraulic-operated) gate valves in its plant to identify valves that are susceptible to pressure locking and thermal binding;

2. Perform further analyses as appropriate, and take needed corrective actions (or justify longer schedules), to ensure that the susceptible valves identified in 1 are capable of performing their intended safety function(s) under all modes of plant operation, including test configuration.

Note: If a licensee has already performed an evaluation of operational configurations to identify motor-operated gate valves susceptible to pressure locking and thermal binding, and has performed additional analyses and taken needed corrective actions for identified valves, in a manner that satisfactorily implements the guidance in Supplement 6 to GL 89–10 (or equivalent industry methods) so that the identified valves are capable of performing their required safety functions, the licensee need not perform any additional action under 1 and 2 above for MOVs.

50.54(f) Information Request

1. Requested Information

All addressees, including those who have already satisfactorily addressed pressure locking and thermal binding for MOVs by implementing the guidance in Supplement 6 to GL 89–10 (or equivalent industry methods), are requested to provide a summary description of the following:

a. The susceptibility evaluation of operational configurations performed in response to (or consistent with) 180-day Requested Action 1, and the further analyses performed in response to (or consistent with) 180-day Requested Action 2, including the bases or criteria for determining that valves are/are not susceptible to pressure locking or thermal binding;

b. The results of the susceptibility evaluation and the further analyses referred to in (a) above, including a listing of the susceptible valves identified;

c. The corrective actions, or other dispositioning, for the valves identified as susceptible to pressure locking or thermal binding, including: (i) Equipment or procedure modifications completed and planned (including the completion schedule for such actions); and (ii) justification for any determination that particular safety-related power-operated gate valves susceptible to pressure locking or thermal binding are acceptable as is.

The staff believes that a corrective action schedule (if corrective actions are needed) may be based on risk significance, including consideration of common cause failure of multiple valves. However, the time schedules for completing corrective action in response to pressure locking or thermal binding concerns do not supersede the requirements of the NRC regulations and individual plant Technical Specifications in the event that a safety-related valve is determined to be incapable of performing its safety function. An addressee's schedule for completing corrective action in response to this generic letter will be considered independent from GL 89–10.

2. Required Response

All addressees are required to submit the following written response to this generic letter:

a. Within 30 days from the date of this generic letter, a written response indicating whether or not the addressee will implement the action(s) requested above. If the addressee intends to implement the requested action(s), provide a schedule for completing implementation. If an addressee chooses not to take the requested action(s), provide a description of any proposed alternative course of action, the schedule for completing the alternative course of action (if applicable), and the safety basis for determining the acceptability of the planned alternative course of action;

b. Within 180 days from the date of this generic letter, a written response to the information request specified above in Requested Information Items 1.a, 1.b, and 1.c;

All addressees shall submit the required written responses and report specified in item 2 above to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, under oath or affirmation under the provisions of section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, a copy shall be submitted to the appropriate Regional Administrator.

Backfit Discussion

10 CFR part 50, appendix A, Criteria 1 and 4, and plant licensing safety analyses, require and/or commit that the addressees design and test safety-related components and systems to provide adequate assurance that those systems can perform their safety functions. Other individual criteria in appendix A to 10 CFR part 50 apply to specific systems. In accordance with those regulations and licensing commitments, and under the additional provisions of 10 CFR part 50, appendix B, Criterion XVI, licensees are expected to take actions to ensure that safety-related power-operated gate valves susceptible to pressure locking or thermal binding are capable of performing their required safety functions. Supplement 6 to GL 89–10 alerted licensees to the problems with pressure locking and thermal binding in MOVs, and described an acceptable approach for addressing these phenomena for MOVs but did not request any specific actions or response form licensees.

The actions requested in this generic letter are considered compliance backfits, under the provisions of 10 CFR 50.109 and existing NRC procedures, to ensure that safety-related power-operated gate valves that are susceptible to pressure locking and thermal binding are capable of performing their intended safety functions. In accordance with the provisions of § 50.109 regarding compliance backfits, a full backfit analysis was not performed for this proposed action; but a documented

evaluation was performed, including a statement of the objectives of and reasons for the requested actions and the basis for invoking the compliance exception. A copy of this evaluation will be made available in the public document room.

Attachment 1—Guidance for Addressing Pressure Locking and Thermal Binding of Power-Operated Gate Vales

The following summarizes an acceptable approach to addressing pressure locking and thermal binding of gate valves within the scope of this generic letter:

1. Perform an evaluation of the safety-related power-operated gate valves having operational configurations that may be susceptible to pressure locking or thermal binding. Document the basis for determining whether valves (a) are susceptible to pressure locking or thermal binding or (b) can be removed from further consideration. For example, solid wedge disk gate valves might not be susceptible to pressure locking. Double disk gate valves are not likely to be susceptible to thermal binding.

The evaluation should include consideration of the potential for gate valves to undergo pressure locking or thermal binding during surveillance testing.

The evaluation also should include review of generic studies for site-specific applicability, such as in the areas of thermal effects and design-basis depressurization.

Examples of unacceptable reasons for eliminating valves from consideration of pressure locking or thermal binding are (1) leakage rate, (2) engineering judgement without justification, and (3) lack of event occurrence at the specific plant.

Several plants have experienced either pressure locking or thermal binding. These cases are discussed in NUREG–1275, Volume 9. Examples of gate valves involved in pressure locking events are:

* Low-pressure coolant injection (LPCI) and low-pressure core spray (LPCS) system injection valves;
* Residual heat removal (RHR) system hot-leg crossover isolation valves;
* RHR containment sump and suppression pool suction valves;
* High-pressure coolant injection (HPCI) steam admission valves;
* RHR heat exchange outlet valves;
* Emergency feedwater isolation valves; and
* RCIC steamline isolation valve.

Examples of gate valves involved in thermal binding events are:

* Reactor depressurization system isolation valves;
* RHR inboard suction isolation valves;
* HPCI steam admission valves;
* Power-operated relief valve (PORV) block valves;
* Reactor coolant system letdown isolation valves;
* RHR suppression pool suction valves;
* Containment isolation valves (sample line, letdown exchanger inlet header);
* Condensate discharge valves; and
* Reactor feedwater pump discharge valves.

2. Perform a further analysis of the safety-related power-operated gate valves identified (in 1 above) as susceptible to either pressure locking or thermal binding to ensure all such valves can be opened to perform their safety function under all modes of plant operation, including test configuration.

If a safety-related power-operated gate valve is found to be susceptible to pressure locking or thermal binding and the addressee relies on the capability of the actuator to overcome pressure locking or thermal binding, consideration of the uncertainties surrounding the prediction of the required thrust to overcome these phenomena should be included in the evaluation. Credit for bonnet pressure decay within the valve response time may not be acceptable unless operation of the actuator under those conditions will not degrade actuator capability.

Attachment 2 to this generic letter describes potential resolution options that may be used by licensees for power-operated gate valves found susceptible to pressure locking to thermal binding. Several preventive and corrective measures for pressure locking and thermal binding are also discussed in NUREG–1275, Volume 9, though each method has limitations with respect to applicability, safety, effectiveness, and cost.

The NRC regulations require an analysis under 10 CFR 50.59 for any valve modifications and the establishment of adequate post-modification and inservice testing of any valves installed as part of the modification. For example, addressees may need to evaluate the effects of drilling the hole in the disk if this option is used to resolve a pressure locking concern. One consideration is the fact that, with a hole in one disk and the other disk flexible allowing fluid to enter the valve bonnet, the valve will be leaktight with respect to pipe flow in only one direction.

As required through appendix B to 10 CFR part 50, the addressee may need to establish training for plant personnel to perform any necessary actions and incorporate specific procedural precautions/revisions into the existing plant operating procedures. For example, plant personnel might periodically stroke certain valves to reduce the potential for thermal binding.

Attachment 2—Description of Potential Resolution Options for Gate Valves Found Susceptible to Pressure Locking or Thermal Binding

1. Analysis Only To Justify Adequate Capability to Overcome the Thrust Requirements of Pressure Locking or Thermal Binding

The staff considers the prediction of the thrust required to overcome pressure locking or thermal binding to be very difficult. An addressee may be able to justify adequate actuator capability in response to pressure locking for small valves. The staff does not consider this alternative appropriate to resolve concerns regarding thermal binding.

2. Testing Only To Justify Adequate Capability to Overcome the Thrust Requirements of Pressure Locking or Thermal Binding

An addressee may be able to demonstrate through an in-situ or prototype test that the actuator has adequate capability to overcome pressure locking for a particular valve. The staff considers this alternative difficult to justify for thermal binding concerns because of the uncertainty in modeling actual plant and valve conditions.

3. A Combination of Testing and Analysis To Justify Adequate Capability to Overcome the Thrust Requirements of Pressure Locking or Thermal Binding

An addressee may be able to demonstrate adequate capability of the actuator to overcome pressure locking based on test information from the particular valve or similar valves from other sources together with an analysis to demonstrate applicability. As with Alternative 2, the staff considers this alternative difficult to justify for thermal binding concerns.

4. Equipment Modifications To Prevent Pressure Locking or Thermal Binding

The staff considers this to be the least difficult alternative to justify and address pressure locking of susceptible gate valves.

Examples of possible modifications to prevent pressure locking are provided in NUREG–1275, Volume 9. Modifications to prevent thermal binding are also possible, such as replacing a wedge gate valve with a parallel-disc gate valve.

5. Procedure Modifications To Prevent Pressure Locking or Thermal Binding

The staff considers procedure modification to be a strong alternative for preventing thermal binding of gate valves. However, procedure modifications are less likely to be a justifiable alternative to prevent pressure locking of gate valves.

Dated at Rockville, MD, this 20th day of March, 1995.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–7431 Filed 3–24–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–423]

Northeast Nuclear Energy Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 106 to Facility Operating License No. NPF–49 issued to Northeast Nuclear Energy Company (the licensee), which revised the Technical Specifications (TS) for operation of the Millstone Nuclear Power Station, Unit No. 3 located in New London County, Connecticut. The amendment is effective as of the date of issuance.

The amendment relaxes the setpoint tolerance for the pressurizer safety valves and the main steam safety valves from ± ±1% to ± ±3%.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 12, 1994 (59 FR 51612). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 13476).

For further details with respect to the action see (1) the application for amendment dated August 4, 1994, (2) Amendment No. 106 to License No. NPF-49, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items 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 Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Dated at Rockville, Md., this 17th day of March 1995.

For the Nuclear Regulatory Commission.

Vernon L. Rooney, SR.,

Project Manager, Project Directorate I–4, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35518; File No. SR–AMEX–94–30]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Listing and Trading of Commodity Linked Notes

March 21, 1995.

I. Introduction

On August 22, 1994, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade Commodity Linked Notes (''COINs''), intermediate term notes whose value will be linked in part to changes in the levels of either the J.P. Morgan Commodity Excess Return Index (''JPMCIX'') or the J.P. Morgan Commodity Return Index (''JPMCI'' together with JPMCIX, ''Indexes'').

Notice of the proposed rule change and Amendment No. 1 (defined herein) was published for comment and appeared in the **Federal Register** on December 2, 1994.[3] No comments were received on the proposal. This order approves the proposal, as amended.

II. Description of Proposal

The Amex proposes to list for trading under Section 107 of the Amex Company Guide (''Section 107'') a new hybrid product called COINS. COINs are intermediate term notes whose value will be linked in part to changes in the level of a commodity index consisting of base metals, precious metals and energy related commodities. More specifically, the value of COINs are based on an index that replicates a trading strategy whereby an investor holds a futures position in each of eleven exchange-traded commodities for a one-month period and then rebalances the positions of the commodities held for the following month to maintain a constant dollar weighting scheme.

A. Description of the Indexes

COINs will be linked to either the JPMCI or the JPMCIX, both of which measure the return from an investment in the same eleven industrial futures contracts.[4] According to the Exchange, the JPMCI and JPMCIX are identical in all aspects except for the incorporation of ''collateral return,'' as more fully described below, into the JPMCI.[5] Both Indexes are designed to replicate a trading strategy, described more fully below, that holds a futures position in each of the eleven futures for a one month period and then rebalances the volume of commodities held for the following month based upon a constant

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR § 240.19b-4 (1993).

[3] *See* Securities Exchange Act Release No. 35005 (November 23, 1994), 59 FR 61911. The Amex on November 16, 1994, submitted Amendment No. 1 (''Amendment No. 1'') to the proposal to allow the underwriter to link the value of the notes to either the JPMCI or JPMCIX, depending upon market conditions and investor interest at the time of the offering. Additionally, the Amendment provides that: only options approved accounts will be permitted to trade the notes; the notes will provide for a 75% guaranteed return of principal; the index value will be calculated at least once a day; the Amex has executed the necessary surveillance sharing agreements with the relevant commodities exchanges; and COINs will comply with the CFTC's hybrid instrument exemption (58 FR 5580 (Jan. 22, 1993)). *See* Letter from Benjamin Krause, Amex, to Michael Walinskas, Derivative Products Regulation, SEC, dated November 16, 1994.

[4] The commodities underlying the Indexes and their approximate weighting are: aluminum (9%), copper (8%), nickel (2%), zinc (3%), heating oil (10%), natural gas (7%), unleaded gas (5%), WTI Light Sweet Crude (33%), gold (15%), silver (5%) and platinum (3%).

[5] *See* Amendment No. 1, *supra* note 3.

dollar weighting scheme. Amex represents that J.P. Morgan desires the flexibility to determine at the time of offering, based upon investor demand and market conditions, which if the Indexes it will utilize for valuing COINs.

COINs will conform to the Amex's listing guidelines under Section 107, which provide that such issues have: (1) A public distribution of one million trading units; (2) 400 holders; and (3) a market value of not less than $20 million. The Exchange also will require that the issuer have a minimum tangible net worth of $150 million. In addition, the Exchange will require that the total original issue price of the notes (when combined with all of the issuer's commodity linked notes which are listed on a national securities exchange or traded through the facilities of NASDAQ), shall not be greater than 25% of the issuer's tangible net worth at the time of issuance.

COINs are non-interest bearing notes with a term of one to three years and, upon maturity, holders will receive at least 75% of the original issue price plus an amount in U.S. dollars equal to a participation rate (*i.e.*, a specified percentage) multiplied by any positive difference between the level of the appropriate index at the time of the offering and the average of the closing index level on the five business days preceding maturity. COINs may not be redeemed prior to maturity, and holders of the notes have no claim to the physical commodities or futures contracts underlying the linked index.

B. Index Design and Calculation

The JPMCIX and JPMCI are designed to replicate a trading strategy that measures both ''price'' return and ''roll'' return from an investment in certain commodities. Price return is the component of return that arises from changes in commodity futures prices. Roll return is the component of return that arises from the hypothetical rolling of a long futures position through time in a sloping forward price curve environment. When nearby dated futures contracts are more expensive than longer dated contracts, roll return is positive. When the reverse applies, roll return is negative.

The relative weights of the Index components will be rebalanced at the end of trading on the fourth business day of every month to maintain the appropriate dollar weighting. In addition, due to the periodic expiration of the futures contracts used to compute the Index value, Amex states that it is necessary to ''roll'' out of expiring contracts and into the new nearby contracts. To minimize possible pricing volatility arising from conducting the ''roll'' on a single business day, the substitution of the new contract for the old is accomplished with 20% of the roll volume transacted on each of the five subsequent business days after the rebalance date. The futures contract to be used for the monthly hypothetical rebalancing and rolling of each commodity will be the nearest designated future contracts [6] to be used in the appropriate Index, with a termination of trading date not earlier than ten business days into the following month.[7]

In addition to price return and roll return, the JPMCI is comprised of ''collateral return,'' which, according to the Amex, represents the risk free component of commodity returns afforded by full collateralization of the notional value of futures positions with Treasury bills. Essentially, it measures the return that an investor would receive if the investor were to margin fully a futures position (*i.e.*, post 100% margin) with Treasury bills. Amex represents that according to J.P. Morgan, because stocks and bonds are collateralized investments, it is useful to treat commodities on the same basis in order to compare risk-return performance, even though some investors may choose not to fully collaterlize commodity investments. Accordingly, J.P./ Morgan believes that collateralization permits meaningful comparison with traditional assets in a portfolio allocation framework.[8]

Prices utilized in the Indexes will be based on New York Mercantile Exchange (''NYMEX'') prices for platinum and energy related commodities; Commodity Exchange (''Comex'') prices for other precious metals (Comex is wholly-owned subsidiary of NYMEX); and London Metal Exchange (''LME'') prices for base metals. These prices are widely reported by vendors of financial information and the press. Index values will be comprised of readily ascertainable and verifiable futures contract settlement and closing prices and will be calculated once each trading day by J.P. Morgan (or an affiliate) and disseminated after 4:00 p.m. (New York time) to vendors of financial information by the issuer, J.P. Morgan.[9]

The design, composition and calculation of both Indexes are expected to remain unchanged during the term of the COINs instruments; however, market developments may necessitate changes to these aspects of the product.[10] Such decisions will be determined on the basis of a ''neutral'' business committee, the JPMCI Policy Committee. This committee is composed of senior employees in the commodities and research areas of J.P. Morgan as well as independent industry and academic experts. Commodity Group personnel of J.P. Morgan are restricted to an advisory, non-voting membership on the JPMCI Policy Committee. J.P. Morgan will immediately notify the Exchange and vendors of financial information that report the Index values in the event that there is change in the relative weightings, calculation methodology or composition of the COINs Index.[11]

Members of the NPMCI Policy Committee and employees of the calculation agent who are involved in the calculation of, or data collection for, any of the commodity interests underlying COINs or the aggregate value of the commodity index underlying COINs will be expressly prohibited from trading COINs. Additionally, the calculation agent will adopt and maintain such reasonable and appropriate procedures as to ensure that the calculation agent, its agents, affiliates and employees, do not take advantage of or communicate to any other person any knowledge concerning changes in the value of the Indexes, or any commodity interest underlying the Indexes before such information is made publicly available.

C. Surveillance Sharing Agreements

The Amex represents that it is able to obtain market surveillance information, including customer identity information, with respect to transactions

[6] The designated futures contracts for each commodity are specified in the Letter from Benjamin Krause, Capital Markets Group, Amex, to Stephen M. Youhn, Derivative Products Regulation, SEC, dated Oct. 4, 1994.

[7] For energy and base metals, the new and old contracts will be different. For precious metals, the new and old contracts may be the same contract because of the absence of a designated contract for every month. In this instance, rebalancing and rolling will only involve an adjustment of the amount held of the old contracts.

[8] The return based upon the Treasury bill rate is calculated using a 13 week T-bill yield, compounded daily at the decompounded discount rate of the most recent weekly U.S. Treasury bill auction as found in the H.15 (519) report published by the Board of Governors of the Federal Reserve System, on the full (100%) value of the index. Interest accrues on an actual day basis over weekends and holidays at the previous day's rate. *See* Amendment No. 1, *supra* note 3.

[9] *See* Letter from William Floyd-Jones, Amex, to Stephen M. Youhn, SEC, dated December 16, 1994 (''December 16 Letter'').

[10] Such developments could include, among other things, changing liquidity conditions or the discontinuation of existing contracts, the emergence of new contracts on relevant commodities, or major progress in substitution technology that renders obsolete industrial processes that make use of a certain commodity.

[11] *See infra* note 17.

occurring on the NYMEX and Comex pursuant to its information sharing agreement with NYMEX.[12] The Exchange also represents that it is able to obtain market surveillance information, including customer identity information, with respect to transactions occurring on LME under information sharing arrangements with the Securities and Futures Authority (''SFA'') through the Intermarket Surveillance Group (''ISG'').[13]

D. Sales Practice and Trading Rules

The Exchange will require that only accounts approved for options trading under Amex Rule 921 shall be permitted to engage in the purchase and/or sale of COINs. In addition, the Amex will require that recommendations in COINs transactions be subject to the heightened suitability standards set forth in Amex Rule 923.[14] Additionally, the Exchange will distribute a circular to its membership prior to the commencement of trading in COINs to provide guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in COINs and highlighting the special risks and characteristics thereof. As with other hybrid debt instruments, COINs will be subject to the equity margin and trading rules of the Exchange.[15]

III. Commission Findings and Conclusions

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). In particular, the Commission believes that the availability of exchange-traded COINs will provide a new instrument for investors to achieve desired investment objectives (*e.g.*, inflation hedge and portfolio diversification) through the purchase of an exchange-traded securities product linked to an index of certain commodities.[16] For the reasons discussed below, the Commission has concluded that the Amex listing standards applicable to COINs are consistent with the Act.

COINs are a new version of hybrid securities debt instruments that are listed on various securities exchanges. These instruments involve publicly offered notes with interest return or a principal component linked to a particular asset or index of assets. For COINs, the interest return and part of the principal return will be derived and based upon the performance of either the JPMCI or JPMCIX, which, in turn, will be dependent upon the performance of the designated futures contracts related to the underlying physical commodities.[17] Although COINs provide investors with a 75% principal guarantee, as discussed below, the value of COINs will be affected partially by certain risks that are associated with the purchase and sale of exchange-traded futures contracts.

The Commission notes that the prices of commodities (and overlying futures contracts), including the eleven commodities utilized for the Indexes, may be subject to volatile price movements caused by numerous factors.[18] Accordingly, an investment in COINs may also be subject to volatile price movements due to price changes in the underlying commodities comprising the Index. In addition, COINs have many complex features, such as the incorporation of hypothetical roll return and collateral return. The Amex has proposed special suitability, disclosure, and compliance requirements to address the complex and risky nature of COINs. First, only accounts approved for options trading pursuant to Amex Rule 921 may engage in transactions in COINs. As a result, only those investors who have expressed an interest in options trading and are deemed qualified by a member to engage in options trading will be permitted to purchase COINs. This is important given the embedded derivative component of COINs. Second, the Amex will require that members who make recommendations in COINs must comply with the heightened suitability standards set forth in Amex Rule 923.[19] Third, COINs provide for a principal return of at least 75% of their initial offering price. While this guaranteed return of principal is subject to the issuer's credit risk, *i.e.*, the ability of J.P. Morgan to meet its repayment obligations upon maturity, this guarantee helps to reduce the likelihood that investors could sustain a substantial loss of their COINs investment due to adverse commodity price movements. Fourth, because COINs are cash-settled, holders will not receive, nor be required to liquidate, the underlying physical commodities or overlying futures contracts. The Commission notes that this provision will effectively terminate a COINs investor's exposure to commodity market risk at the note's maturity. Finally, the Exchange plans to distribute a circular to its membership calling attention to the specific risks associated with COINs.[20] This will assist members in determining the customers eligible to trade COINs, formulating recommendations in COINs, and in monitoring customer and firm transactions in COINs.

The Commission also believes that several factors significantly minimize the potential for manipulation of the Indexes. First, as discussed above, the Indexes represent a diverse cross-

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[12] *See* Letter from William Floyd-Jones, Amex, to Michael Walinskas, SEC, dated August 26, 1994.

[13] *Id.* The ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. the members of the ISG are the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. The SFA is an affiliate member of ISG.

[14] Letter from William Floyd-Jones, Amex, to Stephen M. Youhn, SEC, dated November 17, 1994.

[15] *See* Letter from James McNeil, Chief Examiner, Financial Regulatory Services Department, Amex, to Sharon Lawson, Assistant Director, SEC, dated August 24, 1994, for more specific details concerning the margin treatment for COINs.

[16] Pursuant to Section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[17] In this respect, the Commission notes that Amex will promptly notify the Commission if there are significant changes in the weighings and composition or calculation methodology of the Indexes. Moreover, any proposed material changes to such features might require a separate rule filing pursuant to Rule 19b–4. Furthermore, a rule filing would be required in order to list any other derivative product based upon either of the Indexes or any other index comprised of commodity interests. Finally, a proposed issuer would have to ensure that its product complied with applicable CFTC exemptions or statutory interpretations regarding hybrid products before listing any such product. *See supra* note 3.

[18] Such factors include, but are not limited to, international economic, social and political conditions and levels of supply and demand for the individual commodities.

[19] Amex Rule 923 requires, among other things, that members have reasonable grounds for believing that a recommended transaction is not unsuitable on the basis of information furnished by the customer.

[20] The COINs circular will be submitted to the Commission for its review and should include, among other things, a discussion of those risks which may cause commodities to experience volatile price movements in addition to details on the composition of the Indexes and how the rates of return will be computed.

section of exchange-traded industrial commodities. Second, each of the futures contracts overlying the commodities is relatively actively traded, and has considerable open interest. Third, the majority of futures contracts overlying the component commodities trade on exchanges that impose position limits on speculative trading activity, which are designed, and serve, to minimize potential manipulation and other market impact concerns. Fourth, as discussed below, the Amex has entered into certain surveillance sharing agreements with each of the futures exchanges upon which the underlying designated futures contracts trade. These agreements should help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making COINs less readily susceptible to manipulation.[21] Fifth, the price of COINs will be comprised of readily ascertainable and verifiable futures contract settlement and closing prices and disseminated once each trading day after 4 p.m. (New York time) to vendors of electronic financial information and on the Amex tape.[22] Sixth, adequate procedures are in place to prevent the misuse of information by members of the JPMCI Policy Committee.[23] Accordingly, for the reasons discussed above, the Commission believes the Indexes are not readily susceptible to manipulation and that in any event, the surveillance procedures in place are sufficient to detect as well as deter potential manipulation.

The Commission notes that COINs, unlike standardized options, do not contain a clearinghouse guarantee but are instead dependent upon the individual credit of the issuer, J.P. Morgan. This heightens the possibility that a purchaser of COINs may not be able to receive full principal cash payment upon maturity. To some extent this credit risk is minimized by the Exchange's listing guidelines requiring COINs issuers to possess at least $100,000,000 in assets and stockholders' equity of at least $10 million. In any event, financial information regarding J.P. Morgan will be disclosed or incorporated in the prospectus accompanying the offering of COINs.

Finally, the Commission notes that the approval granted herein is limited to the issuance of COINs whose value is derived from the JPMCI or JPMCIX, as described in this Order. Accordingly, the use of either of the Indexes as an underlying value for any other derivative product, irrespective of the issuer, raises additional legal and/or regulatory issues which would necessitate a rule filing pursuant to Rule 19b–4.

Based on the above, the Commission finds that the proposal to trade COINs is consistent with the Act, and, in particular, the requirements of Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–7447 Filed 3–24–95; 8:45 am]

BILLING CODE 8010–01–M

[21] The Amex has comprehensive surveillance sharing agreements with all of the exchanges upon which the futures contracts overlying COINs trade and is able to obtain market surveillance information, including customer identity information, for transactions occurring on NYMEX and Comex. Furthermore, under the ISG information sharing agreement, SFA will be able to provide, on request, surveillance information with respect to trades effected on the LME, including client identity information. Finally, if the composition of the applicable COINs Index changes or if a different market is utilized for purposes of calculating the value of the designated futures contracts, the Amex will ensure that it has entered into a surveillance sharing agreement with respect to the new relevant market.

[22] *See* December 16 Letter.

[23] As discussed above, members of the JPMCI Policy Committee are expressly prohibited from trading COINs and from communicating any knowledge concerning changes in the value of the Indexes to any other person. Amex will also have surveillance procedures in place to periodically review activity in the notes and/or underlying Index components.

[Release No. 34–35520; International Series Release No. 793, File No. SR–Phlx–95–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Additional Expirations for the Cash/Spot German Mark Foreign Currency Options (''3D Options'')

March 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 25, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On February 24, 1995, the Exchange filed Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[24] 15 U.S.C. 78s(b)(2) (1982).

[25] 17 CFR § 200.30–3(a)(12) (1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Exchange Rule 1012(a)(ii) to permit listing German mark cash/spot foreign currency options (''FCOs''), commonly referred to as ''3D Options,''[2] with series having up to 12 months to expiration. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

On March 8, 1994, the Commission approved the listing and trading of 3D Options.[3] These FCOs are issued by The Options Clearing Corporation and are European-style.[4] The options have one-week and two-week expirations to provide a hedging vehicle for: sophisticated retail customers, portfolio managers, and multi-national corporations which need to hedge their

[1] In Amendment No. 1, the Exchange proposed to: (1) Amend the procedure for the symbols that will be used for the proposed longer term 3D Options; (2) change the name of these options in Phlx's rules from ''cash/spot'' to ''3D'' FCOs; (3) specify the strike price intervals applicable to the longer-term 3D Options; and (4) clarify that the proposal to permit spread margin treatment between the 3D Options and the regular Deutsche mark FCO will be applicable to the weekly, consecutive month, and cycle month series 3D Options. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated February 24, 1995 (''Amendment No. 1'').

[2] ''3D'' refers to dollar denominated delivery.

[3] *See* Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (March 15, 1994).

[4] A European-style option may only be exercised during a specified time period immediately prior to expiration of the option.

short term foreign currency exposure; and to banks which need to hedge the risks associated with trading in the forward and cash markets. The Exchange represents that the users of 3D Options have particularly liked the U.S. dollar settlement feature because they do not have to establish foreign bank credit lines, nor do they have to worry about the potential of exchanging currency due to exercises and assignments. The Exchange further represents that although the users find 3D Options beneficial for managing their short term foreign currency risks, they have also suggested that they would like to use a U.S. dollar settled option to hedge longer term risks. The Phlx, therefore, proposes to add longer term expirations to the 3D Option contract in order to address these requests.

The Exchange proposes to list 3D Options with expirations corresponding to the consecutive month and cycle month series for regular FCOs. Specifically, 3D Options will be listed on the March, June, September, and December cycle with two near-term months. The expiration date will be the Monday preceding the third Wednesday of each month, thus creating a mid-month U.S. dollar settled FCO. The Phlx proposes to amend Phlx Rule 1012(a)(ii)(B) and (C) to reflect these additional series of options. The Exchange will not list 3D Options with month-end expirations or with more than 12 months to expiration.[5]

The Exchange believes that 3D Options with a longer term to expiration will meet the needs of investment managers who are seeking to protect portfolios against foreign exchange fluctuations but who do not wish to receive or deliver the underlying currency to achieve that goal. Similarly, the Exchange believes that corporate treasurers seeking balance sheet protection would also prefer paying or receiving U.S. dollars rather than exchanging German marks. Both of these potential users may have either short or long-term concerns. Finally, retail traders who may have either a short or long-term market perspective, will, in the Exchange's opinion, find these options attractive because they will not have to establish foreign bank credit lines or have to deal with the delivery or receipt of the underlying foreign currency at settlement.

Currently, the weekly 3D Options are listed with the symbol XDA, SDB, XDC, XDD, or XDE depending on whether they will expire on the first, second, third, fourth, or fifth Monday of the month, respectively. Because the proposed longer term 3D Options will expire on the Monday before the third Wednesday of each month, they will always expire on either the second or third Monday of the month. Accordingly, the longer-term 3D Options will be listed with the symbol XDB or XDC and will carry that symbol until expiration.[6]

3D Options are currently listed in one-half point strike price intervals. The Exchange proposes that the proposed longer-term 3D Options listed for the three near term months will also be listed in one-half point strike price intervals, while the 3D Options listed with six, nine, or twelve months to expiration will have one point strike price intervals.[7]

The Exchange intends to allow spread margin treatment between the German mark FCO (''XDM'') and the 3D Options pursuant to Exchange Rule 722(c)(2)(E).[8] This provision allows for short calls or puts to be offset against long calls or puts for margin purposes if the underlying foreign currency and number of units are the same, provided that the ''long'' position expires on or after the date of the ''short'' position.

Even though 3D Options are settled in U.S. dollars and XDM contracts are settled in German marks, the Exchange believes that it should be permissible for a broker-dealer to extend to its customers spread margin treatment for a position consisting of a 3D Option offset against an XDM under the existing Exchange rules.[9] The Exchange believes that this type of spread margin treatment is warranted for the same economic reasons that the Exchange has allowed customers to spread two XDM positions against each other. In both cases, a customer is hedging an option position on the same underlying currency—the German mark. If the market value of the underlying decreases, the customer will lose money on the long side and profit on the short side and, conversely, if the market value of the underlying increases, the customer will profit on the long side and lose on the short side. The Exchange feels that risk reducing strategies need to be recognized and spread margin treatment permitted.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest by providing FCO users who do not necessarily need to exchange currency at settlement with an alternative U.S. dollar settled FCO with corresponding expirations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

[5] The Exchange is also proposing to amend Rules 1000, 1012, 1014, 1057, and 1069 to change references in its rules from cash/spot FCOs to 3D FCOs, as, these FCOs are more commonly referred to. The Exchange is also proposing non-substantive changes to Rule 1012 for ease of reading. *See* Amendment No. 1, *supra* note 1.

[6] For example, a March 1995 3D Option that would expire on Monday March 13, would be listed, for example, as an XDB March 62 call, whereas the April 1995 3D Option that would expire on Tuesday, April 18 (Monday being an Exchange holiday) would be listed as an XDC April 62 call. *See* Amendment No. 1, *supra* note 1.

[7] *Id.*

[8] Exchange Rule 722(c)(2)(E) provides: ''Where a call that is listed or traded on a registered national securities exchange or association is carried 'short' for a customer's account and the account is 'long' a call listed or traded on an exchange or association, expiring on or after the date of the 'short' call and written on the same number of * * * units of the same underlying foreign currency, the minimum margin must be maintained in respect of the 'short' position shall be the lesser of (i) the required amount pursuant to subparagraph (B)(i) or (B)(ii) of the paragraph (c)(2), as the case may be, or (ii) the amount, if any, by which the exercise price of the 'long' call exceeds the exercise price of the 'short' call.''

''Where a put that is listed or traded on a registered national securities exchange or association is carried 'short' for a customer's account and the account is also 'long' a put listed or traded on an exchange or association expiring on or after the expiration date of the 'short' put and written on the same number of * * * units of the same underlying foreign currency (in the case of options on a foreign currency), the minimum margin which must be maintained in respect of the 'short' put shall be the lesser of (i) the margin required pursuant to subparagraphs (B)(i) or (B)(ii) of this paragraph (c)(2) as the case may be, or (ii) the amount, if any, by which the exercise price of the 'short' put exceeds the exercise price of the 'long' put.''

[9] This proposal will apply both to the existing 3D Options and to the proposed longer-term 3D Options. *See* Amendment No. 1, *supra* note 1.

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–02 and should be submitted by April 17, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–7448 Filed 3–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35512; File No. SR–Phlx–95–15]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Codification of Order Ticket Marking Requirements

March 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to consolidate and codify its order ticket marking requirements under Floor Procedure Advice (''Advice'') F–4. The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to list the order ticket marking requirements in a single advice to facilitate floor compliance. By providing a sort of checklist of required marks and by placing the checklist in the Floor Procedure Advice Handbook for ease of reference, the Exchange believes that it will be easier for trading floor personnel to identify and verify in a timely fashion whether an order ticket has been properly marked.

Currently, Advice F–4 requires order tickets for spreads, straddles, combinations and synthetics that receive spread priority to be marked accordingly (e.g., ''sp,'' ''st,'' etc.). This existing requirements, which is now proposed to be labelled as paragraph (a), contains a fine schedule for violations, administered pursuant to the Exchange's minor rule violation enforcement and reporting plan.[1] Proposed paragraph (b) would not contain a fine schedule, and therefore, does not require an amendment to the Exchange's minor rule plan. Instead, failure to mark the order ticket is a violation of the rule or advice, subject to the applicable fine, if any, requiring that mark, not Advice F–4(b). For example, failure to mark ''SS'' respecting a trade designated as ''sold sale'' violates Advice F–3. Proposed Advice F–4(b) does not in and of itself impose new marking requirements.

In recent years, several new order types and marking requirements have been introduced on the options floors. For example, ''BD'' for purposes of the Ten-up Rule, and ''F'' respecting facilitation orders may be required on order tickets. In each case, the Phlx believes that marking the floor ticket correctly is instrumental to ensuring to proper handling of the order in the trading crowd.

The Phlx believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from March 13,

[10] 17 CFR 200.30–3(a)(12) (1994).

[1] The Phlx's minor rule violation enforcement and reporting plan (''minor rule plan''), codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting. Violations of Advice F–4 are currently subject to a minor rule plan citation and fine.

1995, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal would qualify as a ''noncontroversial filing'' in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 Phlx. All submissions should refer to File No. SR–Phlx–95–15 and should be submitted by April 17, 1995.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–7395 Filed 3–24–95; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 200.30–3(a)(12) (1994).

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement: Water Supply Development for the Catoosa Utility District and Upper Cumberland Plateau Region of East Tennessee

AGENCIES: Rural Utilities Service (RUS) and the Tennessee Valley Authority (TVA).

ACTION: Extension of comment period on notice of intent and announcement of public scoping meeting.

SUMMARY: RUS and TVA published a Notice of Intent to prepare an Environmental Impact Statement on alternatives for water supply development for the Catoosa Utility District and the upper Cumberland Plateau region of East Tennessee in the **Federal Register** on February 8, 1995. This original notice stated comments would be received on the scope of the EIS on or before March 10, 1995. RUS and TVA are today extending that comment period until June 5, 1995, and announcing the location of a public scoping meeting.

DATES: Comments on the scope of the EIS must be received on or before June 5, 1995. A public scoping meeting will be held on Tuesday, April 4, 1995 at 6 p.m. Central Standard Time at Glenn Martin Junior High School, 314 South Miller Avenue, Crossville, Cumberland County, Tennessee.

ADDRESSES: Comments should be sent to Dale V. Wilhelm, NEPA Liaison, Tennessee Valley Authority, WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Jack L. Davis, Manager, Water Resource Projects, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville Tennessee 37902, phone (615) 632–4678.

SUPPLEMENTARY INFORMATION: A Notice of Intent (NOI) to prepare an EIS on alternatives for establishing a water supply for the Catoosa Utility District and the Upper Cumberland Plateau area of East Tennessee was published in the **Federal Register** on February 8, 1995. The NOI stated that comments would be received until March 10, 1995. It was not possible to hold a public meeting on the scope of the EIS during that timeframe, and project schedules allows for a longer public scoping period. Therefore, RUS and TVA are extending the EIS scoping period until June 5, 1995, to allow sufficient time to hold the public meeting and allow the interested public to comment on the suggested scope of the EIS alternatives and important issues.

A public meeting will be held on Tuesday, April 4, 1995, at 6 p.m. Central Standard Time at Glenn Martin Junior High School, 314 South Miller Avenue, Crossville, Cumberland County, Tennessee. The purpose of this meeting will be to gain information regarding the scope of the EIS and the resources that may be affected by any proposed water supply activities. Written Comments on these issues should be mailed to the address noted above. Oral and additional written comments will be received at the public meeting.

Dated: March 17, 1995.

Kathryn J. Jackson,

Senior Vice President, Resource Group, Tennessee Valley Authority.

[FR Doc. 95–7459 Filed 3–24–95; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8–95–003]

Eighth Coast Guard District Industry Day Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Commander, Eighth Coast Guard District, is sponsoring a Marine Safety Industry Day to discuss various topics of interest to the marine community. The meeting will be open to the public.

DATES: The meeting will be held on May 16, 1995, from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Fairmont Hotel, 123 Baronne Street (at University Place), New Orleans, LA. The telephone number for the hotel is (504) 529–7111.

FOR FURTHER INFORMATION CONTACT: CDR S. P. Glenn, U.S. Coast Guard, c/o Commander (mep), Eighth Coast Guard District, Hale Boggs Federal Bldg., Room 1341, 501 Magazine Street, New Orleans, LA 70130–3396; telephone number (504) 589–6271; fax number (504) 589–4999.

SUPPLEMENTARY INFORMATION: The past several years, the marine industry has undergone significant change. A much more competitive marketplace, an emphasis on quality, regulatory initiatives in response to several marine casualties, and significant legislation, such as OPA 90, have influenced and changed the way virtually all segments of the industry currently conduct business. The Coast Guard also has taken a new approach as a regulatory agency and embarked on several major

initiatives to improve quality and customer service.

For this year's industry day, we plan to present a series of speakers representing all segments of the industry followed by panel sessions in the afternoon. These presentations, among other topics, will include: the President's Regulatory Reinvention Initiative, New Spill Doctrine, Offshore Issues, ABS Based Alternative Compliance Program, Spill Management, Maritime Law Issues, Licensing, and Commercial Vessel Safety.

The agenda is:

May 16, 1995—Fairmont Hotel

8:30 a.m.—Registration
9:30 a.m.—Welcome and Introductions
Speaker presentations (plenary)
12:00 a.m.—Luncheon with keynote speaker
2:00 p.m.—Panel sessions
4:00 p.m.—Industry Day concludes

Attendance is open to the public. Preregistration for the program is required to assure adequate space. The conference and luncheon fee will be $30.00. Contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section to obtain registration forms and luncheon menu. Reservations must be received no later than April 17, 1995.

Dated: March 8, 1995.

R.C. North,

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

[FR Doc. 95–7371 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–14–M

[CGD8–95–004]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will meet to discuss waterway improvements, aids to navigation, electronic chart systems, and various other navigation safety matters affecting the Houston/Galveston area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 1 p.m. on Thursday, May 18, 1995.

ADDRESSES: The meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: LTJG D. E. Rowlett, Recording Secretary, Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–6235.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

The tentative agenda for the meeting will consist of the following items:

(1) ''Dead zones'' in the Vessel Traffic Service Houston's VHF–FM radio coverage.

(2) Various Coast Guard aids to navigation improvement initiatives and waterway analysis studies.

(3) Updates from the U.S. Army Corps on various waterway improvement projects.

(4) Discussion on deployment of NOAA real-time current meters.

(5) Discussion of Electronic Chart Display and Information Systems.

Dated: March 8, 1995.

R.C. North,

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

[FR Doc. 95–7372 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–14–M

[CGD 95–026]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Navigation Safety Advisory Council will meet at the Thirteenth Coast Guard District, 915 2nd Avenue, WA on Friday, April 21, 1995, and at the Holiday Inn Crown Plaza, 1113 6th Avenue, Seattle, WA on Saturday, April 22, 1995.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director, Navigation Safety Advisory Council, U.S. Coast Guard (G–NSR–3), 2100 Second Street, SW, Washington, DC 20593–0001, Telephone (202) 267–0415.

SUPPLEMENTARY INFORMATION: Committees will meet on Friday, April 21 from 1 to 4 p.m. and on Saturday, April 22 from 8:30 to 11:30 a.m. Committee meetings may be held on Friday evening if additional time is needed. The discussions will include the following topics:

a. Navigation Rules

1. Rule 3—Definition of ''Vessel engaged in Fishing''.

2. Rule 20—Does Rule allow for additional apparatus to enhance the required lights?

3. Rule 18—Responsibilities of Vessels.

b. Human Factors

1. Manning Model Task List.

2. Navigation Safety and Watchkeeping Code.

The Council will convene in plenary session on Friday, April 21 at 8 a.m. to 12 noon and reconvene on Saturday, April 22 at 1 to 4 p.m. to hear Committee status reports and any matters properly brought before the Council.

The meeting is open to the public. Persons wishing to make oral statements should notify the Executive Director no later than Wednesday, April 19, 1995. Any person may present a written statement to the Council at any time without advance notice.

Dated: March 16, 1995.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–7373 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Railroad Administration

[FRA Emergency Order No. 17, Notice No. 3]

Owners of Railroad Tank Cars; Modification of Emergency Order Requiring Inspection and Repair of Stub Sill Tank Cars

The Federal Railroad Administration (FRA) of the United States Department of Transportation finds that Emergency Order No. 17, Notice No. 1 (57 FR 41799; September 11, 1992) and Notice No. 2 (58 FR 8647; February 16, 1993) should be modified. This notice will require owners of stub sill tank cars to comply with the Association of American Railroads' O&M Circular No. 1, Supplement No. 2 (CPC–1030) issued on August 10, 1994.

Effective Date: This amendment is effective March 27, 1995.

For Further Information Contact: Edward W. Pritchard, Chief, Hazardous Materials Division, Office of Safety Enforcement, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–9252 or Thomas A. Phemister, Trial Attorney, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–0635.

Authority

Authority to enforce the Federal railroad safety laws, including laws pertaining to the transportation of hazardous materials by railroad, has

been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads, shippers of hazardous materials, and owners of tank cars are subject to FRA's safety jurisdiction under the Federal railroad safety laws, 49 U.S.C. 20101 *et seq.*, and the Federal hazardous materials transportation safety laws, 49 U.S.C. 5101 *et seq.* FRA is authorized to issue emergency orders where an unsafe condition or practice creates ''an emergency situation involving a hazard of death or personal injury.'' 49 U.S.C. 20104. These orders may immediately impose ''restrictions and prohibitions * * * that may be necessary to abate the situation.'' (*Ibid.*)

Background

On September 3, 1992, FRA issued Emergency Order No. 17, Notice No. 1 (57 FR 41799) requiring owners of stub sill tank cars to comply with the Association of American Railroads (AAR) Tank Car Stub Sill Inspection Program, and the AAR Tank Cars Stub Sill Inspection Procedure, placed in effect in the AAR's O&M Circular No. 1, issued to members and private car owners on July 17, 1992. Under EO17 and the O&M circular, owners of stub sill tank cars must inspect them and shall not return them to service until all defects have been repaired and the cars are in full compliance with Federal railroad safety regulations and the AAR Tank Car Manual. Inspection priorities were established based on characteristics discovered in other inspections and based on accumulated mileage.

FRA received numerous questions regarding the implementation of EO 17. FRA issued EO 17, Notice No. 2, on February 8, 1993, responding to those questions and clarifying its enforcement policy regarding the tank car stub sill inspection program. FRA's goal was to establish understanding and to facilitate compliance early in the program. Towards the end of the first year of the stub sill inspection program, FRA's monitoring efforts disclosed some irregularities in inspection data and a generalized lack of standardized inspection techniques and written procedures. These findings sparked investigations into shops performing the required inspections. From these investigations, it became apparent that the AAR's O&M Circular No. 1 needed to be revised to eliminate these early imperfections in the stub sill program.

FRA believed that AAR could be instrumental in influencing tank car owners to develop written procedures for inspections and could also provide assistance if necessary. Accordingly, on February 14, 1994, FRA wrote AAR and asked that certain subgroups of tank cars be placed into an 18-month priority inspection program. Further, FRA requested tank car manufacturers and owners to develop written procedures for each design of stub sill tank car for distribution to repair facilities performing the required inspections. AAR agreed and ordered several subgroups of tank cars into an 18-month priority inspection program. In addition, on August 10, 1994, AAR issued a supplement to its original O&M Circular No. 1. Supplement No. 2 (to O&M Circular No. 1), copy attached as Appendix A, requests owners to develop written procedures that encompass: (1) Identifying structurally significant components and welds; (2) a means of access to these components and welds, including removal of the jacket, insulation, or thermal coating, if required; (3) inspection techniques to ensure the detection of damage; and (4) proper identification, measurement, and reporting of cracks by line item on the required inspection report form (AAR Form SS–2). Supplement No. 2 also requests owners to forward a copy of the inspection procedures to the inspecting parties and to AAR.

This notice amends Emergency Order No. 17 by incorporating O&M Circular No. 1, Supplement No. 2, thus making tank car owners who do not respond to the request to develop design-specific inspection procedures liable for civil penalties. This notice will also add a requirement that copies of the design-specific inspection procedures must be sent to FRA as well as to AAR. For now, FRA will not review and approve these procedures but will use the copies sent to it as information for its monitoring program. Naturally, FRA reserves the authority to review and approve design-specific inspection procedures if, in the judgment of the agency, experience with their implementation warrants such action.

After spot-checking several repair facilities, FRA has discovered that, some 7 months after AAR's supplement was issued, shops and repair facilities still do not have design-specific procedures for conducting inspections under this emergency order. FRA cannot accept this lack of responsiveness to a program vital to transportation safety. Accordingly, this order will also require car owners to submit to AAR and to FRA their design-specific procedures within 60 days of the date of this order and will prohibit, as of the first anniversary of the AAR's Supplement No. 2 (August 10, 1995), any person from performing further inspections pursuant to this Emergency Order unless the owner has supplied the parties performing the inspection with an inspection procedure applicable to that specific design type.

FRA is aware of some concern within the community of tank car owners that O&M Circular Letter No. 1, Supplement No. 2 could be read to require duplicate, and potentially contradictory, effort by owners to develop inspection plans and procedures. FRA does not find anything in AAR's supplement to justify this concern. On the contrary, FRA encourages owners of stub sill tank cars to cooperate with each other, share information about the designs and the inspection techniques necessary for each, and develop inspection procedures based on the broadest spectrum of knowledge possible for each unique stub sill design. As outlined in FRA's February 1994 letter to AAR, the agency agrees that the written procedures should include the following elements:

- Identification of structurally significant components and welds;
- Access means to these components and welds, including removal of jacket, insulation, or thermal coating, if required;
- Inspection techniques to use to ensure the detection of damage; and,
- Proper identification, measurement and reporting of cracks by line item on AAR Form SS–2.

This notice makes no substantive changes in the manner of obtaining relief from Emergency Order No. 17 or in the penalties for violating it.

Finding and Order

I find that the unsafe conditions causing an emergency situation involving a hazard of death or personal injury that led to the issuance of Emergency Order No. 17 still exist and, accordingly, pursuant to the authority in 49 U.S.C. 20104, delegated to me by the Secretary of Transportation (49 CFR 1.49), it is ordered:

1. That, in addition to the requirements of Emergency Order No. 17, Notice No. 1, owners of stub sill tank cars shall also comply with the AAR Tank Car Stub Sill Inspection Program placed in effect in the Association of American Railroads' O&M Circular No. 1, Supplement No. 2, issued to members and private car owners on August 10, 1994, a copy of which is attached hereto as Appendix A and incorporated herein by reference;

2. That, in addition to furnishing copies of the procedures to AAR and to the inspecting parties, as required by Circular No. 1, Supplement No. 2, owners are required, within 60 days of the date this Notice was issued, to

furnish a copy of the procedures to FRA by sending it to the FRA Office of Safety Enforcement, Hazardous Materials Division, 400 Seventh Street, S.W., Washington, D.C. 20590;

3. That each owner of stub sill tank cars is responsible for distribution of the procedures to the parties performing the inspections and ensuring that the inspecting parties understand and follow the written procedures; and

4. That, effective August 10, 1995, no person may inspect a tank car pursuant to this Emergency Order unless the owner has supplied the inspection point with an inspection procedure applicable to that specific design type.

Relief

Tank car owners may obtain relief from this Emergency Order by inspecting the affected cars as required and repairing them as necessary.

Penalties

Any violation of this order shall subject the person committing the violations to a civil penalty of up to $20,000. 49 U.S.C. 21301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Notice to Affected Persons

This Notice No. 3 will be published in the **Federal Register** and will be sent by mail or facsimile to the Association of American Railroads, The American Short Line Railroad Association, the Regional Railroads of America, the Railway Progress Institute, all members of the AAR Tank Car Committee, the Chemical Manufacturers Association, and the American Petroleum Institute. These organizations are encouraged to make wide distribution of this modification of Emergency Order No. 17 within their membership and to other known interested parties.

Issued in Washington, D.C. on March 20, 1995.

Donald M. Itzkoff,

Deputy Administrator.

Appendix A—Association of American Railroads' O&M Circular No. 1, Supplement No. 2

The text of the Association of American Railroads' O&M Circular No. 1, Supplement No. 2 (CPC–1030), as issued on August 10, 1994, over the signature of Mr. J.J. Robinson, Senior Assistant Vice President, Operations and Maintenance Department, Casualty Prevention Division is as follows:

AAR O&M Circular No. 1; Supplement No. 2 Tank Car Stub Sill Inspection Program

1. Audits of the inspections being performed at several tank car facilities have revealed the need for each tank car owner to develop written inspection procedures for each unique stub sill design represented in his or her fleet, to distribute the procedures to the parties performing the inspections, and to ensure that the inspecting parties fully understand and consistently follow the written procedures. These written procedures should include the following elements:

- Identification of structurally significant components and welds;
- Access means to these components and welds, including removal of jacket, insulation or thermal coating, if required;
- Inspection techniques to use to ensure the detection of damage; and,
- Proper identification, measurement and reporting of cracks by line item on AAR Form SS–2.

In order to ensure the quality of the data and consistency of the inspection results, owners are requested to develop these procedures and to forward them to the inspecting parties as soon as possible. A copy of the procedures should also be filed with AAR, to the attention of the Manager - Freight & Tank Car Design; 50 F Street NW; Washington, DC 20001. Owners should contact the builders for assistance in the development of these procedures.

2. The SILSPEC software used to report the results of stub sill inspections has been updated to include a more comprehensive ''look-up'' of builders and stub sill design styles. A paper copy of the look-up table and the referenced Figures is enclosed, as is a table of Stub Sill Design Style Templates, which defines weld locations that must and must not be reported for each design. If there is a need to report cars built to any of the designs that have been added to the table, a copy of the updated software may be obtained from Paul Kinnecom at 202/639–2147 (FAX 202/639–2930).

(**Note:** Because the AAR's O&M Circular No. 1, Supplement No. 2 has been sent to all AAR members and to private car owners, FRA is not reproducing the inspection program's table and figures in the **Federal Register**.)

[FR Doc. 95–7416 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–06–P

Maritime Administration

[Docket S–919]

Lykes Bros. Steamship Co., Inc.; Application for a Waiver of Section 804(a) of the Merchant Marine Act, 1936, as amended, to permit Foreign-Flag Reciprocal Space Charter, Sailing, and Cooperative Working Agreement

Lykes Bros. Steamship Co., Inc. (Lykes), by application dated March 16, 1995, requests waiver of the provisions of section 804 of the Merchant Marine Act, 1936, as amended, through the expiration of its operating-differential subsidy contract, December 31, 1997, to permit a reciprocal space charter, sailing, and cooperative working agreement with Evergreen Marine Corporation (Evergreen) in the U.S. foreign commerce.

The agreement, according to Lykes, covers the trade between the U.S. gulf and east and west coasts on the one hand and North Europe on the other. The typical itinerary for Lykes' U.S.-gulf and east coast/North Europe vessel is Galveston, New Orleans, Miami, Charleston, Norfolk, New York, Boston, Antwerp, Bremerhaven, Felixstowe, LeHavre and Boston. The Evergreen service covered by this Agreement will be provided by the vessels dedicated to its round-the-world service. Evergreen's westbound trans-Atlantic service typically calls Hamburg, Thamesport, Rotterdam, Antwerp, LeHavre, New York, Norfolk, Charleston, and Long Beach before proceeding west across the Pacific. The ordinary eastbound trans-Atlantic itinerary for Evergreen is Long Beach, Charleston, Baltimore, New York, LeHavre, Antwerp, Thamesport, and Hamburg.

Lykes notes that contingent on the Maritime Administration's approval and expiration of the Federal Maritime Commission's review period, Lykes has entered into an agreement with Evergreen for a reciprocal space charter, coordination of sailings, and cooperative working arrangement in these services. Under the agreement, the companies will negotiate and agree upon reciprocal space charters on their respective vessels in the trade and upon sailings coordination as appropriate. Lykes points out that the agreement is intended to permit Lykes to achieve better utilization of the vessels committed to North Atlantic services by establishing a course of slot chartering business with Evergreen. Through the use of slots on Evergreen's vessels the agreement will enable Lykes to offer shippers broader, more responsive service without any additional capital outlay. The opportunity to rationalize

schedules, Lykes contends, will permit operational savings to be realized and lend flexibility to Lykes' itineraries.

Lykes states that addition of vessels to the services of Lykes or Evergreen beyond those currently operated or under contract for construction for this trade is not contemplated. Accordingly, Lykes concludes, the agreement will have no substantial impact on U.S.-flag carriers in the North Atlantic trade. This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on April 10, 1995. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: March 22, 1995.

Joel C. Richard,

Secretary.

[FR Doc. 95–7427 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL RAILROAD ADMINISTRATION

National High-Speed Ground Transportation; Policy Outreach Meetings

AGENCY: Federal Railroad Administration, Office of Railroad Development.

ACTION: Notice of Public Meetings.

SUMMARY: The Federal Railroad Administration (FRA) will hold regional public outreach meetings around the United States to invite public input for developing the National High Speed Ground Transportation (HSGT) Policy, as mandated by the Intermodal Surface Transportation Efficiency Act. The public is invited to attend and/or submit written comments.

DATES: Written comments are invited at any time until May 30, 1995. Comments should be submitted by mail to the address below and will be accepted in person at each meeting. Comments received by April 7, 1995 will be considered in setting the agenda for the outreach meetings.

The sessions will take place as follows:

Dates: April 20, 1995.
Place: Knickerbocker Hotel, Grand Ballroom, 163 E. Walton Place, Chicago, Illinois 60611, (312) 751–8100.
Time: 5 p.m. to 7:30 p.m.
Local Contact: Merrill Travis, IDOT, (217) 782–2835.

Date: May 2, 1995.
Place: Shaker Ridge Club, 802 Albany Shaker Road, Loudonville, New York 12211, (518) 869–0246.
Time: 1 p.m. to 4 p.m.
Local Contact: Don Baker, New York DOT, (518) 457–5521.

Date: May 4, 1995.
Place: Virginia DOT, Main Auditorium, 1221 East Broad Street, Richmond, Virginia 23219.
Time: 5 p.m. to 7:30 p.m.
Local Contact: Leo Bevon, Virginia DOT, (804) 786–8410.

Date: May 15, 1995
Place: BPA Federal Office Building, Auditorium, 911 N.E. 11th Avenue (at Holladay St.) (Auditorium entrance on 9th St. side), Portland, Oregon 97232, (503) 326–2107.
Time: 5:30 p.m. to 8 p.m.
Local Contact: Donald Forbes, Oregon DOT, (503) 378–3373.

Date: May 17, 1995.
Place: Grand Hall, 1215 J Street, Sacramento, California 95814.
Time: 5 p.m. to 7:30 p.m.
Local Contact: Steve Zimrick, California DOT, (916) 227–9409.

Date: May 25, 1995
Place: Marriott Hotel, 7499 Augusta National Drive, Orlando, Florida 32822, (407) 851–9000.
Time: 5 p.m. to 7:30 p.m.
Local Contact: Charlie Smith, Florida DOT, (904) 487–4261.
Registration: Attendees are asked to arrive 30 minutes prior to the beginning of the meeting for registration.

In addition to the above sessions, there will be a special session in Boston, Massachusetts, during the annual convention of the High Speed Rail/Maglev Association. This is scheduled for Monday, May 8 from 5:00 to 6:30 PM at the Westin Hotel, Copley Place, Boston, MA. The public is also invited to this special session.

The addresses of the various sessions are above.

Background

These meetings will comprise a key part of the Department of Transportation's overall efforts to develop policy in support of the implementation of high-speed ground transportation as an element of an intermodal transportation system. The Department is currently working to lay the groundwork for the implementation of HSGT through state and local planning and investment and through a federal partnership for technology development.

The development of a HSGT policy is particularly relevant at this time because of the Secretary's proposal to consolidate current transportation funding programs and increase significantly the flexibility available to State and local governments to finance different types of projects with a unified allocation of funds. In addition, the Secretary has proposed developing State Infrastructure Banks, capitalized in part with Federal seed money, to leverage further investment from private capital and other sources. He has also proposed that some discretionary funding would be available for investments of regional or national significance. How HSGT investment would be treated in this context is a topic of special importance for HSGT policy.

The HSGT policy development will also consider ongoing changes at Amtrak. Since the future of HSGT, particularly options to operate at up to 150 m.p.h. on existing rights-of-way (Accelerail), is linked to the future of conventional Amtrak service in corridor markets, the recently announced restructuring of Amtrak presents new challenges as well as new opportunities, for state participation. In particular, that restructuring is designed to reduce Amtrak's cost structure by delivering service more efficiently and to improve customer service, and hence increase revenues, by reorganizing the corporation and empowering employees and managers. These changes should position Amtrak as a competitive organization to deliver HSGT services sponsored by State governments.

The HSGT policy development will consider ongoing technology development and corridor planning by states and their partners. These activities are currently authorized by the Swift Rail Development Act of 1994. The Swift Act, which was signed into law by the President in November 1994, authorizes matching grants up to a total of $184 million over three years, to assist HSGT technology development, including projects such as positive train control, non-electric high-speed locomotive development, and corridor planning, including engineering plans, commercial feasibility and environmental impact studies, and the acquisition of right-of-way for upgrading to HSGT. In FY 1995, $25 million

dollars was appropriated for the Next Generation High Speed Rail Program which included five million for corridor planning. For FY 1996, the Administration requested $68 million for the Next Generation High Speed Rail Program and the High Speed Ground Transportation Research and Development.

Finally, the HSGT policy development will consider the results of a study of the potential performance and commercial feasibility of HSGT. The report, to be transmitted to Congress in 1995, will identify types of HSGT systems that would be most beneficial in various markets. It will also identify the challenges that will need to be addressed in order to implement HSGT in the U.S.

Both the High Speed Ground Transportation Commercial Feasibility Study Report to Congress (Report) and the National HSGT Policy are required by Section 1036 of the Intermodal Surface Transportation Efficiency Act (ISTEA) [49 U.S.C. 309(d) and (e)].

The Report will examine several illustrative corridors to obtain an understanding of the potential for HSGT around the nation. It will consider several types of HSGT technology systems, including Accelerail; new high speed rail (new, electric, dedicated high-speed only rail lines, 200 miles per hour); and Maglev (magnetic levitation vehicles on new lines, 300 mph). The Report is not a replacement for the more detailed analyses of individual corridors by state and local governments. It will, rather, be an assessment of HSGT potential in the U.S. as a whole, to guide national policy makers in HSGT-related decisions.

Section 1036 calls for the Policy to include ''provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States.''

The public will be invited to participate fully in discussions at these regional outreach meetings. The public is also invited to submit written comments on any subject relevant to the Policy before, after, or during the meetings, but public input on certain questions is of special interest to FRA. The principal questions are listed below, and FRA encourages the public to comment on these questions on the basis of each region's specific experience with transportation and HSGT issues.

Among the topics to be considered in the Policy, and at the regional outreach meetings, are:

(1) The Role of HSGT in the National Transportation System

Commenters on this topic are invited to consider:

(a) Can HSGT fill transportation needs in a cost effective manner not met by your region's current transportation system?

(b) What HSGT technologies are being considered, for what kinds of markets [short-term and long-term] in your region?

(c) How extensive a system makes good economic or financial sense in your region?

(d) How would your regional HSGT system be connected to the rest of the transportation system?

(2) Planning for HSGT

Commenters on this topic are invited to consider:

(a) Is your region using existing conventional rail service to prepare a market for HSGT? How?

(b) Does the presence of conventional rail service, including commuter rail, offer benefits to the regional HSGT system?

(c) To what extent and how are corridors suitable for future HSGT being preserved in your region?

(d) To what extent is there planning for joint public use transportation corridors in the region (e.g., highway and HSGT)? What are the obstacles and potential solutions?

(e) How will intermodal connections, such as transit lines to existing stations and right-of-way acquisitions near airports be planned for your HSGT system?

(f) What factors are key to the planning and implementation of interstate HSGT projects?

(g) What should be the roles of the Federal, state, and local governments, Metropolitan Planning Organizations, and the private sector in HSGT planning, construction, and operation in this region?

(3) Funding HSGT

Commenters on this topic are invited to consider:

(a) What non-Federal funds (local, State, private) are being used and considered for implementation in your region?

(b) What other sources of non-Federal funds (current or future) would you recommend to support HSGT for your region? (i.e., fuel tax, user fees, state/local government grants or loans, impact fees, private efforts and debt.)

(c) Federal law currently allows the issuance of tax-free bonds to finance HSGT projects for 150 miles per hour operation and above. If this were to include HSGT projects below 150 m.p.h., would this type of financing be utilized for HSGT in this region?

(d) What are the obstacles or impediments to the funding of HSGT projects under the current ISTEA legislation?

(e) How extensively would the Secretary's proposed unified allocation of funds for transportation investment be used for HSGT in your state or region?

(f) How could the Secretary's proposed program provide additional leverage for private capital to participate in funding HSGT projects?

(g) How could the new program structure be used most effectively to foster the kind of HSGT investment envisioned in your region?

(4) Implementing HSGT

Commenters on this topic are invited to consider:

(a) How should the issue of liability for host railroads be dealt with? Should insurance be purchased for HSGT operations? Should total liability or punitive damages be capped by statute? Should this be accomplished at the Federal or State level?

(b) Does the mechanism now embodied in Section 403(b) of the Rail Passenger Service Act (State-assisted service) provide an appropriate way to upgrade current corridor services to higher speeds?

(c) What should be the role of Amtrak in HSGT? Should State HSGT sponsors have the option of choosing another provider of the service and, if so, should the other provider have the same rights vis-a-vis the owning railroad that Amtrak now has?

(d) Are special arrangements needed with the private railroads to insure the future availability of excess rights-of-way and capacity for HSGT in this region?

(e) What sorts of labor issues are raised by HSGT projects, and do Federal laws related to rail labor need to be changed for HSGT service?

(f) What types of new technologies are important to the development of HSGT in this region?

(g) What should be the nature of Federal HSGT technology development and demonstration activities? What should be the State role in this region?

(h) What other actions should be taken to promote a U.S. HSGT industry? The possibilities include defense conversion projects, Buy American requirements, and tax policies.

(i) How should policies to promote a U.S. HSGT industry be gauged against the efficiency of using currently available foreign technologies?

(j) What specific constitutional or other legal provisions in your state currently adversely affect implementation of HSGT? What changes would you suggest to overcome these barriers?

FRA invites respondents who plan to attend outreach sessions to send preliminary comments in advance of the session, identifying which session they plan to attend. Additional comments from participants following the sessions will also be welcome.

For further information contact: John F. Cikota, (202) 366–9332

Issued in Washington, D.C. on March 21, 1995

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

[FR Doc. 95–7509 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 17, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the satisfaction survey described below between April–June 1995, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval this information collection by March 31, 1995. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below. All comments must be received by close of business March 27, 1995.

Internal Revenue Service (IRS)

OMB Number: 1545–1349
Form Number: None
Type of Review: Revision
Title: 1995 Telephone Routing Interactive System Voice Balance Due Telephone Application Customer Satisfaction Survey
Description: The Internal Revenue Service has developed the Voice Balance Due automated telephone application which allows IRS callers to request a payment extension or establish a monthly payment plan to satisfy an outstanding balance due interactively, without assistor involvement
Respondents: Individuals or households
Estimated Number of Respondents: 700
Estimated Burden Hours Per Respondent:
Automated Customer Satisfaction Survey—2 minutes
Manual Customer Satisfaction Survey—5 minutes
Frequency of Response: Other
Estimated Total Reporting Burden: 83 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–7390 Filed 3–24–95; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 17, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the satisfaction survey described below between April–May 1995, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval this information collection by March 31, 1995. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below. All comments must be received by close of business March 27, 1995.

Internal Revenue Service (IRS)

OMB Number: 1545–1349
Form Number: None
Type of Review: Revision
Title: 1995 Telephone Routing Interactive System Location Telephone Application Pilot Test
Description: The Internal Revenue Service has developed the automated Location Telephone Application which provides IRS callers with the addresses and hours of operation of the IRS offices offering taxpayer assistance interactively, without assistor involvement
Respondents: Individuals or households
Estimated Number of Respondents: 2,250
Estimated Burden Hours Per Respondent: 2 minutes
Frequency of Response: Other
Estimated Total Reporting Burden: 113 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–7391 Filed 3–24–95; 8:45 am]

BILLING CODE 4830–01–M

Federal Law Enforcement Training Center

Notice of Meeting

AGENCY: Advisory Committee to the National Center for State and Local Law Enforcement Training.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes the introduction of new members and special guests; opening remarks by the Director of the Federal Law Enforcement Training Center and Committee Co-chairs; and reports on the following initiatives, Community Policing Concept, STAR series and Crime Bill, Georgia Air National Guard activities, Department of Defense Counter Drug Activities, International Training, and the Fellowship Program.

DATES: March 29, 1995.

ADDRESSES: Federal Law Enforcement Training Center, Building 94, Board Room, Glynco, GA 31524.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State and Local Law Enforcement Training, Federal Law

Enforcement Training Center, Glynco, GA 31524.

Hobart M. Henson,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 95–7397 Filed 3–24–95; 8:45 am]

BILLING CODE 4810–32–M

Customs Service

[T.D. 95–24]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that on March 1, 1995, the Secretary of the Treasury, pursuant to Section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111.45(a) of the Customs Regulations, as amended (19 CFR 111.45(a)), ordered the revocation of the license (No. 5954) issued to George Louis-Ferdinand in the New York Customs Region.

Dated: March 21, 1995.

Philip Metzger,

Director, Trade Compliance Division.

[FR Doc. 95–7503 Filed 3–24–95; 8:45 am]

BILLING CODE 4820–02–M

Public Meetings in Houston, Texas and Charleston, South Carolina on AES Implementation Phase I

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of public meetings.

The U.S. Customs Service, Automated Export System Development Team announces the following public meetings:

DATES: Charleston, SC., Wednesday, April 5, 1995, commencing at 9:00 a.m. and Houston, TX., Wednesday, April 19, 1995, commencing at 9:00 a.m.

ADDRESS: Charleston, SC., Holiday Inn (Patriots Room), 250 Highway 17 Bypass, Mt. Pleasant, SC., 29464.

Houston, TX., Sheraton Crown Hotel and Conference Center (Airport), 15700 JFK Boulevard, Houston, TX, 77032.

FOR FURTHER INFORMATION CONTACT: Charleston Meeting: Mr. Steve Talley (803) 727–4387; Pre-registration Fax: (803) 727–4114.

Houston Meeting: Ms. Jean Bienz (713) 233–3600; Pre-registration Fax: (713) 233–3620

SUPPLEMENTARY INFORMATION: U.S. Customs Commissioner George J. Weise has announced that Phase 1 of the Automated Export System (AES) will be implemented at the ports of Baltimore; Norfolk; Houston; Charleston, South Carolina and Long Beach, California. Implementation is scheduled for July 1995.

AES is a joint venture between Customs and the Bureau of Census. The system is designed to electronically gather export-related information from both exporters and carriers prior to actual exportation.

A major goal of AES is to improve the accuracy of export trade statistics, which are used as a primary economic indicator. Eventually, AES will replace numerous paper and electronic mechanisms for filing Shipper's Export Declarations (SED's). AES will also enhance collection of the Harbor Maintenance Fee on exports, which is expected to return $60 to $80 million to the U.S. Treasury annually.

Customs, Treasury's lead agency for international trade issues, started AES development in May 1994. The AES team has been working closely with a Trade Resource Group comprised of members from export-related industries.

In this document, Customs is announcing the following public meetings on AES:

1. Charleston, SC., Wednesday, April 5, 1995, commencing at 9:00 a.m., Holiday Inn (Patriots Room), 250 Highway 17 Bypass, Mt. Pleasant, SC., 29464, Point of Contact: Mr. Steve Talley (803) 727–4387; Pre-registration Fax: (803) 727–4114.
2. Houston, TX., Wednesday, April 19, 1995, commencing at 9:00 a.m., Sheraton Crown Hotel and Conference Center (Airport), 15700 JFK Boulevard, Houston, TX, 77032, Point of Contact: Ms. Jean Bienz (713) 233–3600; Pre-registration Fax: (713) 233–3620.

In order to ensure that overcrowding does not result, persons planning to attend a meeting are requested to preregister by contacting the individual identified as the contact person for the city where they plan on attending.

Dated: March 22, 1995.

Sharon A. Mazur,

Director, AES Development Team.

[FR Doc. 95–7505 Filed 3–24–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–23]

Revocation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMAMRY: Notice is hereby given that on March 7, 1995, the following Customs broker licenses were revoked by operation of law due to the failure of the broker to file the triennial status report as required by 19 CFR 111.30(d). These licenses were issued in the Los Angeles Customs district.

Christopher Carle—10478
Lisa Crum—11775
Mark Dawson—7156
Troy Erickson—12605
Hadassah Foster—12628
Joel Meyer—5801
Janice Powell—11831
Kelly Reed—13210
Charlene Stecher—6210
Horace Taylor—2897
Robert Waggoner—2710
Susan Yoshinaga—10596

Hence, the subject licenses are revoked.

Dated: March 21, 1995.

Philip Metzger,

Director, Trade Compliance Division.

[FR Doc. 95–7504 Filed 3–24–95; 8:45 am]

BILLING CODE 4820–02–M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, P.L. 87–256. USIA is requesting approval of a revision of a currently approved collection entitled ''Application Package, United States Information Agency, Bureau of Educational and Cultural Affairs'', OMB Number 3116–0212 under a new title of ''Proposal Submission Instructions (PSI), United States Information Agency, Bureau of Educational and Cultural Affairs.'' Estimated burden hours per response is 20 hours. Respondents will be required to respond only one time.

DATES: Comments are due on or before April 26, 1995.

COPIES: Copies of the Request for Clearance (OMB–83–1), supporting statement, transmittal letter and other documents submitted to OMB for approval maybe obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547, telephone (202) 619–4408; and OMB review: Mr. Jefferson Hill, Office of Information And Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.c. 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0212) is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Title: Proposal Submission Instructions (PSI), United States Information, Bureau of Educational and Cultural Affairs.''

Form Number: Proposal contains multiple forms

Abstract: Information collection from the pubic will enable the grant review panel and the Associate Director to ensure that each application complies with the established procedures and approving and/or disapproving of funding is properly warranted.

Proposed Frequency of Responses:

No. of Respondents—2000.

Recordkeeping Hours—0.

Total Annual Burden—40,000.

Dated: March 21, 1995.

Rose Royal,

Federal Register Liaison.

[FR Doc. 95–7412 Filed 3–24–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 58

Monday, March 27, 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).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, March 30, 1995, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bunk Beds

The Commission will consider options for Commission action to address fatal entrapment and other incidents associated with bunk beds.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 23, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95–7667 Filed 3–23–95; 3:56 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Friday, March 31, 1995, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Protocol Revisions

The staff will brief the Commission on two new issues raised on a final rule revising the child-resistant packaging test protocols under the Poison Prevention Packaging Act. This matter arises from the Commission's decision on February 9, 1995, to reopen the proceeding and to accept oral and written comments on the newly-raised issues.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 23, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95–7668 Filed 3–23–95; 3:56 pm]

BILLING CODE 6355–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: March 29, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 627th Meeting—March 29, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2954–014, City of Santa Barbara, California
CAH–2.
Omitted
CAH–3.
Omitted
CAH–4.
Project No. 2306–017, Citizens Utilities Company
CAH–5.
Project No. 11521–000, Skokomish Indiana Tribe
CAH–6.
Project No. 7888–010, Comtu Falls Corporation
CAH–7.
Project Nos. 11076–000 and 2016–018, city of Tacoma, Washington

Consent Agenda—Electric

CAE–1.
Docket No. ER95–530–000, Ocean State Power II
Docket No. ER95–533–000, Ocean State Power
CAE–2.
Docket Nos. ER95–521–000 and ER95–524–000, Delmarva Power & Light Company
CAE–3.
Docket No. ER94–305–000, Nevada Power Company
CAE–4.
Docket No. ER94–1685–001, Citizens Lehman Power Sales
CAE–5.
Docket No. EL87–51–005, Cajun Electric Power Cooperative, Inc. v. Gulf States Utilities Company
Docket No. ER88–477–005, Gulf States Utilities Company
CAE–6.
Docket Nos. ER93–465–013, ER93–507–006, ER93–922–009, EL94–47–002, EL94–12–005, EL94–28–002, EL93–28–005 and EL93–40–005, Florida Power & Light Company
CAE–7.
Docket No. EG95–29–000, Austin Cogeneration Corporation
CAE–8.
Docket No. EG95–30–000, Austin Cogeneration Partners, L.P.
CAE–9.
Docket No. EG95–28–000, Dominion Energy Services Company, Inc.
CAE–10.
Omitted

Consent Agenda—Oil and Gas

CAG–1.
Docket Nos. RP95–115–001 and 002, CNG Transmission Corporation
CAG–2.
Docket No. RP95–174–000, Texas Eastern Transmission Corporation
CAG–3.
Docket No. RP95–177–000, Southern Natural Gas Company
CAG–4.
Docket No. RP95–180–000, ANR Pipeline Company
CAG–5.
Docket No. RP95–181–000, ANR Pipeline Company
CAG–6.
Docket No. RP95–182–000, ANR Pipeline Company
CAG–7.
Omitted
CAG–8.
Docket Nos. RP95–194–000 and 001, Columbia Gas Transmission Corporation
CAG–9.
Docket Nos. RP95–195–000 and 001, Columbia Gulf Transmission Corporation
CAG–10.
Docket No. RP95–196–000, Columbia Gas Transmission Corporation
CAG–11.
Docket Nos. RP95–197–000 and 001, Transcontinental Gas Pipe Line Corporation
CAG–12.
Omitted
CAG–13.

Docket No. TM95–3–22–000, CNG Transmission Corporation
CAG–14.
Omitted
CAG–15.
Omitted
CAG–16.
Docket No. RP94–343–004, NorAm Gas Transmission Company
CAG–17.
Docket No. RP95–173–000, Koch Gateway Pipeline Company
CAG–18.
Docket No. RP95–175–000, Mojave Pipeline Company
CAG–19.
Docket No. RP95–176–000, Panhandle Eastern Pipe Line Company
CAG–20.
Docket No. RP95–178–000, Northern Natural Gas Company
CAG–21.
Docket Nos. RP95–179–000 and 001, Northern Natural Gas Company
CAG–22.
Docket No. RP95–185–000, Northern Natural Gas Company
CAG–23.
Docket Nos. RP95–187–000 and TM95–2–37–000, Northwest Pipeline Corporation
CAG–24.
Docket No. RP95–188–000, NorAm Gas Transmission Company
CAG–25.
Docket No. RP95–190–000, Williams Natural Gas Company
CAG–26.
Docket No. RP95–191–000, Williston Basin Interstate Pipeline Company
CAG–27.
Docket No. RP95–192–000, Williston Basin Interstate Pipeline Company
CAG–28.
Docket No. RP95–193–000, Williston Basin Interstate Pipeline Company
CAG–29.
Docket No. RP95–199–000, NorAm Gas Transmission Company
CAG–30.
Docket No. TM95–2–5–000, Midwestern Gas Transmission Company
CAG–31.
Docket No. TM95–3–28–000, Panhandle Eastern Pipe Line Company
CAG–32.
Docket Nos. TM95–3–32–000 and TM94–4–32–000, Colorado Interstate Gas Company
CAG–33.
Docket No. TM95–3–33–000, El Paso Natural Gas Company
CAG–34.
Docket No. TM95–4–30–000, Trunkline Gas Company
CAG–35.
Docket No. PR95–1–000, Magnolia Pipeline Company
CAG–36.
Docket No. RP94–273–001, Columbia Gas Transmission Corporation
CAG–37.
Docket Nos. TM94–4–17–002, 003, 004, TM94–5–17–001, 002 and TM95–3–17–000, Texas Eastern Transmission Corporation
CAG–38.
Docket No. RP95–189–000, K N Interstate Gas Transmission Company
CAG–39.
Docket No. RP94–372–000, Southern Union Gas Company v. Northern Natural Gas Company
CAG–40.
Docket No. RP93–34–008, Transwestern Pipeline Company
CAG–41.
Docket Nos. RP94–206–000 and 001. Pacific Gas Transmission Company
CAG–42.
Omitted
CAG–43.
Omitted
CAG–44.
Docket No. RP94–367–000, National Fuel Gas Supply Corporation
CAG–45.
Docket No. RP94–318–001, Columbia Gas Transmission Corporation
CAG–46.
Docket No. RP94–343–005, NorAm Gas Transmission Company
CAG–47.
Docket No. AC94–16–001, Tennessee Gas Pipeline Company
CAG–48.
Docket No. IS94–21–001, Kenai Pipe Line Company
CAG–49.
Docket Nos. RP94–246–002 and RP94–288–002, Williams Natural Gas Company
Docket No. RP94–355–002, City Utilities of Springfield, Missouri V. Williams Natural Gas Company
CAG–50.
Docket Nos. CP92–481–001 and PR93–11–001, Northern Illinois Gas Company
Docket No. RP94–16–001, Southern California Gas Company
CAG–51.
Docket Nos. RP93–147–008, RP94–201–002, RP94–175–002, CP94–153–001, RP91–203–052 and RP92–132–043, Tennessee Gas Pipeline Company
CAG–52.
Omitted
CAG–53.
Docket Nos. RP92–229–004 and 005, Northwest Pipeline Corporation
CAG–54.
Docket Nos. CP92–182–010 and RP95–103–001, Florida Gas Transmission Company
CAG–55.
Docket Nos. RP92–226–000, 004 and RS92–65–009, Kern River Gas Transmission Company
CAG–56.
Docket Nos. RP89–34–010, RP89–257–003 and RP90–2–013, Williston Basin Interstate Pipeline Company
CAG–57.
Docket No. RP94–163–000, CNG Transmission Corporation v. Tennessee Gas Pipeline Company
CAG–58.
Docket Nos. IS95–23–000 and IS92–26–000, *et al.*, Williams Pipe Line Company
CAG–59.
Docket No. IS95–24–000, Kaneb Pipe Line Operating Partnership, L.P.
CAG–60.
Docket Nos. IS92–27–000, IS93–4–000 and IS93–33–001, Lakehead Pipe Line Company, Limited Partnership
CAG–61.
Docket No. GP94–18–000, State of Louisiana Office of Conservation—Geopressured Brine Gas Well Determinations (FERC Nos. JD94–04615, *et al.*)
CAG–62.
Docket No. GP95–3–000, Railroad Commission of Texas Tight Formation Area Determination, FERC No. JD92–02505T (Texas-15 Addition 3)
CAG–63.
Docket Nos. CP93–613–002 and CP93–673–002, Northwest Pipeline Corporation
CAG–64.
Docket No. CP94–36–006, Arkla Gathering Services Company
Docket Nos. CP94–628–003 and RP95–94–005, NorAm Gas Transmission Company
CAG–65.
Docket Nos. CP94–211–001 and –002, Transwestern Pipeline Company
CAG–66.
Docket Nos. CP94–267–000 and –001, NorAm Gas Transmission Company
CAG–67.
Docket No. CP94–781–000, East Tennessee Natural Gas Company
CAG–68.
Docket No. CP95–2–000, Texas Eastern Transmission Corporation
CAG–69.
Omitted
CAG–70.
Docket Nos. CP93–685–000 and –001, Tuscarora Gas Transmission Company
CAG–71.
Docket No. CP95–139–000, NCX Company, Inc.
Docket No. CP95–138–000, Natural Gas Pipeline Company of America

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. RM95–8–000, Open Access Non-discriminatory Transmission Services by Public Utilities
Docket No. RM94–7–001, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities. Notice of Proposed Rulemaking.
E–2.
Docket No. ER93–540–000, American Electric Power Service Corporation
Docket No. ER94–1637–000, Cinergy Services, Inc.
Docket No. ER95–371–000, Commonwealth Edison Company
Docket No. ER94–1518–000, Commonwealth Electric Company
Docket Nos. ER94–898–000 and EC94–7–000, El Paso Electric Company and Central and South West Services, Inc.
Docket No. ER95–112–000, Entergy Services, Inc.
Docket Nos. ER93–465–000, *et al.*, Florida Power & Light Company
Docket No. ER94–1045–000, Kansas City Power & Light Company

Docket No. ER94–1698–000, Kentucky Utilities Company
Docket No. ER94–1380–000, Louisville Gas & Electric Company
Docket No. ER94–1113–000, Northern States Power Company (Minnesota and Wisconsin)
Docket No. ER94–1348–000, Southern Company Services
Docket No. ER95–203–000, UtiliCorp United, Inc.
Docket No. ER95–262–000, Wisconsin Electric Power Company
Docket No. ER94–475–000, Wisconsin Power & Light Company
Docket No. ER94–1639–000, Wisconsin Public Service Corporation. Procedural order.

E–3.
Docket No. ER95–9–000, Real-Time Information Networks. Notice of Technical Conference.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. ER95–5–000, Release of Firm Capacity on Interstate Natural Gas Pipelines. Final Rule.

II. Pipeline Certificate Mattes

PC–1.
Reserved

Dated: March 22, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7587 Filed 3–23–95; 11:27 am]
BILLING CODE 6717–01–M

Corrections

Federal Register

Vol. 60, No. 58

Monday, March 27, 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 ENERGY

Federal Energy Regulatory Commission

Tennessee Gas Pipeline Co.; Notice of Informal Settlement Conference

Correction

In notice document 95–6839 appearing on page 14935, in the issue of Tuesday, March 21, 1995, make the following correction:

On page 14935, in the first column, in the first line, ''March 16, 1995.'' should read ''March 15, 1995.''.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94E–0235]

Determination of Regulatory Review Period for Purposes of Patent Extension; Semprex™-D Capsules

Correction

In notice document 94–23276 appearing on page 48440 in the issue of Wednesday, September 21, 1994, make the following correction:

On page 48440, in the third column, in the second paragraph, in the eighth line, ''March 20, 1994,'' should read ''March 20, 1995,''.

BILLING CODE 1505–01–D

Federal Register

Monday
March 27, 1995

Part II

Department of Commerce

National Telecommunications and Information Administration

Advisory Council on the National Information Infrastructure; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advisory Council on the National Information Infrastructure; Meeting

AGENCY: National Telecommunications and Information Administration (NTIA); Commerce.

ACTION: Notice is hereby given of a meeting of the United States Advisory Council on the National Information Infrastructure, created pursuant to Executive Order 12864, as amended.

SUMMARY: The President established the Advisory Council on the National Information Infrastructure (NII) to advise the Secretary of Commerce on matters related to the development of the NII. In addition, the Council shall advise the Secretary on a national strategy for promoting the development of the NII. The NII will result from the integration of hardware, software, and skills that will make it easy and affordable to connect people, through the use of communication and information technology, with each other and with a vast array of services and information resources. Within the Department of Commerce, the National Telecommunications and Information Administration has been designated to provide secretariat services to the Council.

DATES: The NII Advisory Council meeting will be held on Wednesday, April 12, 1995 from 9:00 a.m. until 4:00 p.m.

ADDRESSES: The NII Advisory Council meeting will take place in the Main Ballroom of the La Fonda on the Plaza Hotel, 100 East San Francisco Street, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Ms. Celia Nogales (or Ms. Tiffani Burke, alternate), Designated Federal Officer for the Advisory Council on the National Information Infrastructure, National Telecommunications and Information Administration (NTIA); U.S. Department of Commerce, Room 4892; 14th Street and Constitution Avenue, N.W.; Washington, D.C. 20230. Telephone: 202–482–1835; Fax: 202–482–0979; E-mail: nii@ntia.doc.gov.

Authority: Executive Order 12864, signed by President Clinton on September 15, 1993, and amended on December 30, 1993 and June 13, 1994.

SUPPLEMENTARY INFORMATION:

Agenda

1. *Opening Remarks by the Co-Chairs (Delano Lewis, Ed McCracken)*
2. *Discussion of KICKSTART including reports from Mega-Project I (Vision and Goals Driven by Specific Applications), Mega Project II (Access to the NII), Mega-Project III (Privacy, Security and Intellectual Property)*
3. *KICKSTART Panel: Success Models*
4. *Outreach Presentation*
5. *Public Comment, Questions and Answers*
6. *Next Meeting Date and Agenda Items*

Public Participation

The meeting will be open to the public, with limited seating available on a first-come, first-served basis. Any member of the public requiring special services, such as sign language interpretation, should contact Tiffani Burke at 202–482–1835.

Any member of the public may submit written comments concerning the Council's affairs at any time before or after the meetings. Comments should be submitted through electronic mail to nii@ntia.doc.gov or to the Designated Federal Officer at the mailing address listed above.

Within thirty (30) days following the meeting, copies of the minutes of the Advisory Council meeting may be obtained through Bulletin Board Services at 202–501–1920, 202–482–1199, over the Internet at iitf.doc.gov, or from the U.S. Department of Commerce, National Telecommunications and Information Administration, Room 4892, 14th Street and Constitution Avenue, N.W.; Washington, D.C. 20230, Telephone 202–482–1835.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 95–7385 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–60–P

Federal Register

Monday
March 27, 1995

Part III

Department of Justice

Bureau of Prisons, Federal Prison Industries, Inc.

28 CFR Parts 345 and 545

Federal Prison Industries (FPI) Inmate Work Programs; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons, Federal Prison Industries, Inc.

28 CFR Parts 345 and 545

[BOP–1003–F]

RIN 1120–AA04

Federal Prison Industries (FPI) Inmate Work Programs

AGENCY: Federal Prison Industries, Inc., Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising its rule on Federal Prison Industries (FPI) Inmate Work Programs (formerly entitled UNICOR Inmate Work Programs). This amendment reorganizes into one part existing provisions on inmate hiring procedures, pay, and scholarship and incentive awards programs. It updates Bureau policy by adding provisions on position classification and recruitment, physical and medical work limitations, inmate worker standards, performance appraisal, dismissal procedures, benefit retention, and training programs. The intent of this amendment is to enable the Bureau to continue to employ and train inmates in a manner that will assist the inmate in post-release employment.

EFFECTIVE DATE: April 26, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Federal Prison Industries (FPI) Inmate Work Programs (formerly entitled UNICOR Inmate Work Programs). UNICOR is the commercial or ''trade'' name of Federal Prison Industries, Inc. (FPI). FPI, a component of the Bureau of Prisons, is a wholly-owned government corporation whose mission is to provide institution work assignments and training opportunities for inmates confined in Federal correctional facilities. A proposed rule on this subject was published in the **Federal Register** on December 16, 1992 (57 FR 59866). The comment period closed on February 1, 1993. The Bureau received only one response from the general public. A summary of that comment and agency response follows.

The commenter criticized the proposed rule on administrative grounds. First, the commenter stated that any major policy change in the Bureau's regulations ought to be the prerogative of the new administration. Second, the commenter stated that the proposed rule should have originated with the Board of Directors of Federal Prison Industries, Inc. The commenter then claimed that the published document did not reflect that the Board of Directors was aware of the proposed policy being enacted on its behalf. In response to these points, the Bureau notes that both the proposed rule and this final rule received appropriate clearances. With respect to the first point, clearance of the final rule is in and of itself sufficient guarantee of the final policies expressed therein. With respect to the second point, the Bureau notes that the proposed rule was signed by the Director under her titles as the Director of the Bureau of Prisons and the Commissioner of Federal Prison Industries. Furthermore, the authority citation for the proposed revision included a reference that the rule was promulgated pursuant to a resolution by the Board of Directors of Federal Prison Industries, Inc. Sufficient authority exists under 28 CFR 0.99 for the Commissioner of Federal Prison Industries, as the officer designated by the Board, to prescribe regulations governing the payment of compensation to inmates, and in order to eliminate any confusion, this final rule makes that designation explicit.

The commenter also took issue with the statement in the proposed rule that the mission of Federal Prison Industries, Inc. was to provide institution work assignments and training opportunities for inmates confined in Federal correctional facilities. The commenter alleged that FPI assignments did not qualify as job training programs. More specifically, the commenter claimed that over an eight year period he was aware of only one person who left prison and entered a job doing exactly the same thing. In response, the Bureau notes that its Post-Release Employment Project (PREP), a research study completed in January of 1992, concluded that inmates who participated in FPI work and other vocational programming during their imprisonment showed better institutional adjustment, were less likely to be returned to custody at the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money than inmates who had similar background characteristics, but who did not participate in work and vocational training programs. Further Bureau research on mobility issues—the impact of prison work and vocational training on changes in occupations before, during, and after release from prison—is still in process. Preliminary results from these studies confirm the Bureau's belief that the commenter's anecdotal evidence is misrepresentative. In any event, the Bureau notes that FPI work assignments perform essential vocational training needs even if they only serve to instill habits of work and responsibility suitable for any occupational category.

The commenter characterized almost all of the proposed rule changes as being less favorable for the inmates than existing rules. The commenter claimed that the proposed rule gave inmates in FPI assignments less job security and weaker longevity retention rights. More specifically, the commenter noted that under the current regulations an inmate may be removed virtually only for an FPI-related disciplinary problem. The Bureau takes issue with the characterization that almost all the rule changes are less favorable. The Bureau believes that these revisions benefit inmates by standardizing policies in such areas as position classification, physical and medical work limitations, benefit retention provisions, recruitment procedures, work standards, performance appraisal, etc.

With respect to the effects of disciplinary actions, the Bureau notes that revised provisions covering the effects of non-FPI disciplinary actions is both logical and supportive of correctional management. As noted in proposed § 345.42(c), an inmate found to have committed a prohibited act (whether or not it is FPI related) resulting in segregation or disciplinary transfer is also to be dismissed from Industries based on an unsatisfactory performance rating for failure to be at work. The Bureau believes it is not unreasonable to apply the same sanction in response to similar circumstances. As revised, § 345.42(c) serves as an additional incentive for inmates to avoid committing any prohibited act.

The commenter also objected to the proposed rule stating that it vested much more discretion in the hands of the Superintendents of Industry (SOIs) at individual facilities. In the opinion of the commenter, FPI Superintendents were not professional managers and had no training in the field of management. The Bureau notes that appropriate training is made available to FPI staff, and that the comprehensive nature of the revisions in this rulemaking help to ensure the successful operation of FPI programs.

The commenter also objected to provisions for premium pay, claiming that this served to reward informants rather than to reward productivity. The commenter also claimed that the display of leadership by inmates was in direct conflict with Bureau policy prohibiting an inmate from exercising responsibilities over another inmate. As noted in proposed § 345.52(e), premium pay is not a form of bonus or incentive pay for highly productive inmates. Other pay provisions (for example, piecework rates) serve as incentive for productivity. The proposed rule had explained that premium pay is a recognition of the value of the leadership and citizenship traits in FPI operation. Contrary to the commenter's allegation, premium pay is not intended to be a reward for informants nor does it place an inmate in a position of authority over another inmate. As a clarification of this point, paragraph (b) has been revised to specify that the selection criteria must be posted and paragraph (e) has been revised to note that premium pay is a means of recognizing the value of those traits supportive of morale and good institutional adjustment.

The commenter did approve of the proposed safeguards provided in § 345.66 provided for inmates placed in Administration Detention who are later determined not to have committed a prohibited act. As proposed, these safeguards included the retention of job and pay grade, with actual pay suspended, for up to the first thirty days in Administrative Detention, and for reimbursing the inmate if the inmate was found not to have committed a prohibited act. No provisions were made for reimbursing inmates in similar circumstances (e.g., while on writ or on medical idle). In this final rule, the Bureau has therefore removed the proposed provision for reimbursing inmates in Administrative Detention when they have been found not to have committed a prohibitive act.

In adopting the proposed rules as final, the Bureau has made various editorial or organizational changes in addition to the change discussed above. These further changes are discussed below.

The organization of the regulation into subparts has been slightly adjusted for editorial reasons. Revisions to certain subpart headings necessitated conforming revisions to pertinent section headings. In neither case, however, is there any change in the intent of the regulation.

Throughout the regulation the term ''Federal Prison Industries'' and its acronym ''FPI'' have been used more consistently in place of the trade name ''UNICOR.'' This change is also reflected in § 345.11, where the definitions of Federal Prison Industries, Inc. and of UNICOR have been consolidated. Further changes to § 345.11 include the removal of the definition of ''Federal Prison Industries Board of Directors'' which was deemed to be unnecessary for inclusion in the regulations, editorial changes to the definition of ''Superintendent of Industries,'' and the addition of definitions regarding work status which had appeared in proposed § 345.50.

The provisions in paragraph (a) of § 345.32 regarding the use of waiting lists have been revised to clarify that ordinarily these are used in the selection process.

In § 345.33, paragraph (a) has been revised to remove unnecessary gender references. Paragraph (b) has been revised to conform to separately stated provisions on the effects of disciplinary action. Paragraph (e) has been revised to broaden the scope of special needs with respect to recommendations for priority placement on the waiting list.

Section 345.35 has been reorganized and revised to clarify that the Supervisor of Industries makes the assignment with the concurrence of the unit team. In stating the Bureau's policy of nondiscrimination in paragraph (a), the phrase ''physical handicap'' has been replaced with the word ''disability'' to conform to the terminology used in current statutes.

In § 345.40, the introductory text has been amended to include provision for reasonable accommodation of inmates with disabilities. Similar reference to the use of reasonable accommodation for inmates with disabilities has also been added to the statement of purpose and scope in § 345.10.

In § 345.41, paragraph (b) has been amended to include reference to time in grade requirements.

Section 345.50 has been revised and reorganized for the sake of conciseness. As noted above, definitions relating to work status have been transferred to § 354.11. Provisions in proposed § 345.50 relating to specific benefits have been transferred to the appropriate section.

Section 345.51 has been revised to remove unnecessary references to time in grade provisions and to include summary provisions on eligibility previously contained in proposed § 345.50.

Section 345.56 has been amended to include reference to the amount of time needed to process written requests for vacation time.

Section 345.64 has been revised to more accurately describe the SOI's role in ensuring that necessary information on medical limitations are made available to line supervisory staff.

A new § 345.66 has been added containing the provisions on claim limitations previously proposed in § 345.50 (c)(1). Proposed § 345.66 on retention of benefits accordingly has been redesignated as § 345.67.

Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered, but will not receive response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Parts 345, 545

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons, and Commissioner of Federal Prison Industries.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons and the Board of Directors, Federal Prison Industries in 28 CFR 0.96(p) and 0.99, part 345 in chapter III of 28 CFR is revised and part 545 in subchapter C of 28 CFR, chapter V is amended as set forth below.

1. 28 CFR part 345 is revised to read as follows:

PART 345—FEDERAL PRISON INDUSTRIES (FPI) INMATE WORK PROGRAMS

Subpart A—Purpose and Scope

Sec.
345.10 Purpose and scope.

Subpart B—Definitions

345.11 Definitions.

Subpart C—Position Classification

345.20 Position classification.

Subpart D—Recruitment and Hiring Practices

345.31 Recruitment.
345.32 Hiring.
345.33 Waiting list hiring exceptions.
345.34 Refusal to employ.
345.35 Assignments to FPI.

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

Subpart A—Purpose and Scope

§ 345.10 Purpose and scope.

It is the policy of the Bureau of Prisons to provide work to all inmates (including inmates with a disability who, with or without reasonable accommodations, can perform the essential tasks of the work assignment) confined in a federal institution. Federal Prison Industries, Inc. (FPI) was established as a program to provide meaningful work for inmates. This work is designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits which will be useful when released from the institution. There is no statutory requirement that inmates be paid for work in an industrial assignment. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates working in Industries. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Federal Prison Industries' Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Assistant Director, Industries, Education and Vocational Training (Assistant Director).

Subpart B—Definitions

§ 345.11 Definitions.

(a) *Federal Prison Industries, Inc. (FPI)*—A government corporation organizationally within the Bureau of Prisons whose mission is to provide work simulation programs and training opportunities for inmates confined in Federal correctional facilities. The commercial or ''trade'' name of Federal Prison Industries, Inc. is UNICOR. Most factories or shops of Federal Prison Industries, Inc. are commonly referred to as ''UNICOR'' or as ''Industries''. Where these terms are used, they refer to FPI production locations and to the corporation as a whole. UNICOR, FPI, and Industries are used interchangeably in this manner. For these purposes, Federal Prison Industries, Inc. will hereinafter be referred to as FPI.

(b) *Superintendent of Industries (SOI)*—The Superintendent of Industries, also referred to as Associate Warden/Industries and Education, is responsible for the efficient management and operation of an FPI factory. Hereinafter, referred to as SOI.

(c) *FPI Work Status*—Assignment to an Industries work detail.

(1) An inmate is in FPI work status if on the job, on furlough, on vacation, for the first thirty days on writ, for the first 30 days in administrative detention, or for the first 30 days on medical idle for FPI work-related injury so long as the injury was not intentional and did not result from a violation of safety regulations. An inmate on sick call, however, is not considered to be in FPI work status.

(2) *Full-Time Work Status.* A work schedule for an inmate consisting of 90% or more of the normal FPI factory work week.

(3) *Part-Time Work Status.* A work schedule of less than 90% of the normal FPI factory work week.

(d) *Unit Team*—Bureau of Prisons staff responsible for the management of inmates and the delivery of programs and services. The Unit Team may consist of a unit manager, case manager, correctional counselor, unit secretary, unit officer, education representative, and psychologist.

(e) *Unit Discipline Committee (UDC)*—The term Unit Discipline Committee refers to one or more institution staff members delegated by the Warden with the authority and duty to hold an initial hearing upon completion of the investigation concerning alleged charge(s) of inmate misconduct (see 28 CFR 541.15). The Warden shall authorize these staff members to impose minor sanctions for violation of prohibited act(s).

(f) *Discipline Hearing Officer (DHO)*—This term refers to an independent discipline hearing officer who is responsible for conducting Institution Discipline Hearings and who imposes appropriate sanctions for incidents of inmate misconduct referred for disposition following the hearing required by 28 CFR 541.15 before the UDC.

Subpart C—Position Classification

§ 345.20 Position classification.

(a) Inmate worker positions must be assigned an appropriate level of pay. All inmate workers shall be informed of the objectives and principles of pay classification as a part of the routine orientation of new FPI inmate workers.

(b) The Warden and SOI have the responsibility for position classification at each location.

Subpart D—Recruitment and Hiring Practices

§ 345.31 Recruitment.

Inmate workers for FPI locations may be recruited through admission and orientation lectures or through direct recruiting.

§ 345.32 Hiring.

(a) Inmate workers are ordinarily hired through waiting lists. Except as noted in § 345.33, inmates are to be placed on the waiting lists in order of receipt of applications for work with Industries, and are to be hired in the same sequence.

(b) Waiting lists are to be maintained and kept available for scrutiny by auditors and other staff with a need to know. SOI's are encouraged to maintain a waiting list for each FPI factory.

§ 345.33 Waiting list hiring exceptions.

(a) *Needed Skills.* An inmate may be hired ahead of other inmates on the waiting list if the inmate possesses needed skills and the SOI documents the reasons for the action in the position classification files.

(b) *Prior FPI Work Assignment.* An inmate with prior FPI work experience during the inmate's current commitment and with no break in custody will ordinarily be placed within the top ten percent of the waiting lists unless the inmate was transferred for disciplinary reasons, was placed in segregation, or voluntarily left the FPI work assignment for non-program reasons (i.e. for some reason other than formal education, vocational training, drug abuse or similar formal programs). For example, an inmate transferred administratively for nondisciplinary reasons, and who has documented credit as a prior worker, is covered under the provisions of this paragraph.

(c) *Industry Closing and Relocation.* When an FPI factory closes in a location with two or more FPI factories, an inmate worker affected may be transferred to remaining FPI factories ahead of the top portion of the inmates on the waiting lists, so there is no break in active duty with FPI. Such actions are also in order where the work force of an industry is reduced to meet institution or FPI needs. An inmate transferred under the provisions of this part will have the same benefits as any intra-industry transfer.

(d) *Disciplinary Transfers.* An inmate who is a disciplinary transfer from the last institution designated and who wishes re-assignment in FPI at the receiving institution may be hired on a case-by-case basis at the discretion of the SOI, who should consider the security level and reasons for the misconduct. Such an inmate, despite prior experience, is not due special placement on the waiting list, is not given advance hiring preference, and does not receive consideration for accelerated promotion back to the grade held at time of transfer.

(e) *Special Needs.* For special needs, such as Inmate Financial Responsibility assignment to assist in paying a significant financial obligation or for release preparation, the unit team may recommend an inmate for priority placement on the waiting list. Such placement must be documented and include the reason for the exception.

§ 345.34 Refusal to employ.

(a) The SOI has authority to refuse an FPI assignment to an inmate who, in the judgment of the SOI, would constitute a serious threat to the orderly and safe operation of the FPI factory. A refusal to assign must be documented by a memorandum to the unit team listing reasons for the refusal, with a copy to the position classification files in FPI. Typically, the reasons should include other earlier (ordinarily within the past twelve months) documented violations of the FPI inmate worker standards or institution disciplinary regulations.

(b) The refusal to assign is to be rescinded when, in the judgment of the SOI, the worker no longer constitutes a serious threat to the FPI industrial operation.

§ 345.35 Assignments to FPI.

(a) Any request by an inmate for consideration must be made through the unit team. All inmates may be considered for assignment with FPI. FPI does not discriminate on the bases of race, color, religion, ethnic origin, age, or disability.

(b) The SOI ordinarily makes assignments based on the recommendation of the unit team.

(1) New workers are ordinarily assigned at pay grade five. All first-time inmate workers shall enter at pay grade five and may be required to successfully complete a course in pre-industrial training or on-the-job training (as available) before promotion to pay grade four.

(2) An inmate who has not successfully completed pre-industrial or on-the-job training remains at pay grade five for at least 30 days.

(3) An inmate hired after having resigned voluntarily from FPI may be excused from pre-industrial training and may be hired at a pay grade based on previous training and experience.

Subpart E—Inmate Worker Standards and Performance Appraisal

§ 345.40 General.

This subpart authorizes the establishment of minimum work standards for inmate workers assigned to the Industries program at all field locations. The SOI may reproduce these standards and may also develop additional local guidelines to augment these standards and to adapt them to local needs and conditions. Local Industries shall place these standards and any additional local guidelines on display at appropriate locations within the industrial sites. Inmates shall be provided with a copy of these standards and local guidelines, and shall sign receipts acknowledging they have received and understand them before beginning work in the Industries program. In the case of a disabled inmate, alternate media or means of communicating this information and indicating the inmate's receipt may be provided, if necessary as a reasonable accommodation.

(a) At a minimum, each industrial location is to have work standards for each of the following areas:

(1) Safety—ensuring the promotion of workplace safety and the avoidance of activities that could result in injury to self or others.

(2) Quality Assurance—ensuring that work is done as directed by the supervisor in an attentive manner so as to minimize the chance of error.

(3) Personal Conduct and Hygiene—ensuring the promotion of harmony and sanitary conditions in the workplace through observation of good hygiene and full cooperation with other inmate workers, work supervisors, and training staff.

(4) Punctuality and Productivity—ensuring the productive and efficient use of time while the inmate is on work assignment or in training.

(b) *Compliance With Work Standards.* Each inmate assigned to FPI shall comply with all work standards pertaining to his or her work assignment. Adherence to the standards should be considered in evaluating the inmate's work performance and documented in individual hiring, retention, and promotion/demotion situations.

§ 345.41 Performance appraisal for inmate workers.

Work supervisors should complete a performance appraisal form for each inmate semi-annually, by March 31 and September 30, or upon termination or transfer from the industrial work assignment. Copies shall be sent to the unit team. Inmate workers should discuss their appraisals with their supervisors at a mutually agreeable time in order to improve their performance. Satisfactory and unsatisfactory performance ratings shall be based on the standards in § 345.40(a).

(a) The SOI is to ensure that evaluations are done and are submitted to unit teams in a timely manner.

(b) The SOI or a designee may promote an inmate to a higher grade level if an opening exists when the inmate's skills, abilities, qualifications, and work performance are sufficiently developed to enable the inmate to carry out a more complex FPI factory assignment successfully, when the inmate has met the institution's time-in-grade (unless waived by the SOI), and when the inmate has abided by the inmate worker standards. Conversely, the SOI or SOI designee may demote an inmate worker for failing to abide by the inmate worker standards. Such demotions shall be fully documented.

§ 345.42 Inmate worker dismissal.

The SOI may remove an inmate from Industries work status in cooperation with the unit team.

(a) The SOI may remove an inmate from FPI work status according to the conditions outlined in the pay and benefits section of this policy and in cooperation with the unit team.

(b) An inmate may be removed from FPI work status for failure to comply with any court-mandated financial responsibility. (See 28 CFR 545.11(d)).

(c) An inmate found to have committed a prohibited act (whether or not it is FPI related) resulting in segregation or disciplinary transfer is also to be dismissed from Industries based on an unsatisfactory performance rating for failure to be at work.

Subpart F—Inmate Pay and Benefits

§ 345.50 General.

Title 18 U. S. Code Section 4126 authorizes FPI to compensate inmates under rules and regulations promulgated by the Attorney General. It is the policy of FPI to provide compensation to FPI inmate workers through various conditions of pay and benefits, except as otherwise provided in these regulations.

§ 345.51 Inmate pay.

(a) *Grade levels.* Inmate workers in FPI locations receive pay at five levels ranging from 5th grade pay (lowest) to 1st grade pay (highest).

(b) *Eligibility.* (1) An inmate shall accrue vacation time, longevity service credit, and shall receive holiday pay for the period of time the inmate is officially assigned to the Industries work detail. For limitations on claims, refer to § 345.66.

(2) Inmate workers may be eligible for premium pay as specified in § 345.52. Eligibility for other pay and benefits are described separately in this subpart.

(3) FPI pay and benefits are lost in cases of disciplinary transfer and segregation.

(4) An inmate returned to the institution due to program failure at a Community Corrections Center or while on parole or escape is not entitled to credit for time spent in Industries prior to said program failure. This rule also applies to any other program failure which results in a break in confinement status.

§ 345.52 Premium pay.

Payment of premium pay to selected inmates is authorized. The total number of qualifying inmates may not exceed 15% of first grade inmates at a location.

(a) *Eligibility.* Inmates in first grade pay status may be considered for premium pay.

(b) *The Selection Process.* Candidates for premium pay must be nominated by a foreman on the FPI staff, and recommended on the basis of specific posted criteria by a selection committee assigned by the SOI.

(1) The SOI, as the chief selecting official, must sign approval for all premium pay inmate selections. This authority may not be delegated below the level of Acting SOI.

(2) The selected candidate(s) are notified by the FPI Manager or by a posted list on the FPI bulletin board. A record of the selection and who was on the selection board is kept for documentation purposes. An inmate nominated to be a premium pay inmate may refuse the appointment without prejudice.

(c) [Reserved]

(d) *Pay Rate.* Premium pay inmates receive a specified amount over and above all other pay and benefits to which they may be entitled (e.g., longevity pay, overtime, piecework rates, etc.). Premium pay is also paid for vacation, holiday, and administrative hours.

(e) *Duties of Premium Pay Inmates.* Premium pay is a means of recognizing the value of those traits supportive of morale and good institutional adjustment. It is not a form of bonus or incentive pay for highly productive inmates.

(f) *Transfer Status Of Premium Pay Inmates.* Premium pay status may not be transferred from institution to institution with the inmate worker. Premium pay status must be earned at each location.

(g) *Removals From Premium Pay Status.* Removal from premium pay status may occur for failure to demonstrate the premium pay selection traits or for failure to abide by the inmate worker standards set forth in this policy. All removals from premium pay status shall be documented on the inmate's evaluation form. The following conditions also may result in removal from premium pay status:

(1) Any premium pay inmate found to have committed any level 100 or 200 series offense by the DHO is automatically removed from premium pay status whether or not the offense was FPI-related.

(2) Inmates absent from work for more than 30 consecutive calendar days may be removed from premium pay status by the SOI.

§ 345.53 Piecework rates.

Piecework rates are incentives for workers to strive for higher pay and production benefiting both the worker and FPI. Piecework rates may be of two major types: individual piecework (in which an individual's pay goes up or down depending upon his/her own output) or Group Wage Fund (in which all members of a group strive for higher rates or production output as a unit, and all share in a pool of funds distributed among work group members equally).

§ 345.54 Overtime compensation.

An inmate worker is entitled to overtime pay at a rate of two times the hourly or unit rate for hourly, individual, and group piecework rate workers, when the total hours worked (including administrative pay) exceed the FPI factory's regularly scheduled workday. Hours worked on days other than the scheduled work week (e.g., Saturday) shall be compensated at the overtime rate.

§ 345.55 Longevity pay.

(a) Except as provided in paragraph (b) of this section, an inmate earns longevity pay raises after 18 months spent in FPI work status regardless of whether or not the work was continuous. The service may have occurred in one or more FPI factories or shops. An inmate qualifies for longevity pay raises as provided in the table below:

Length of Service With FPI
After 18 months of service and payable in the 19th month
After 30 months of service and payable in the 31st month
After 42 months of service and payable in the 43rd month
After 60 months of service and payable in the 61st month
After 84 months of service (& more) and payable in the 85th month

Longevity pay allowances shall be added after the wages for each actual hour in pay status have been properly computed.

(b) *Exceptions.*

(1) FPI work status during service of a previous sentence with a subsequent break in custody may not be considered in determining longevity pay.

(2) An inmate in segregation or who is given a disciplinary transfer loses any longevity status previously achieved.

(3) An inmate who voluntarily transfers to a non-FPI work assignment loses any longevity status previously achieved. An inmate who leaves FPI to enter education, vocational training, or drug abuse treatment programs, however, generally retains longevity and pay grade status upon return to FPI, unless the inmate withdraws from those programs without a good faith effort to complete them. The decision on whether there was a good faith effort is to be made by the SOI in concert with the staff member in charge of the program.

§ 345.56 Vacation pay.

Inmate workers are granted FPI vacation pay by the SOI when their continued good work performance justifies such pay, based on such criteria as quality of work, attendance and punctuality, attentiveness, and adherence to industry operating regulations. The inmate must submit a written request for vacation time, ordinarily two weeks in advance of the requested vacation time. The work supervisor must recommend to the SOI the vacation time to be taken or paid. Eligibility for vacation pay must be verified by the Business Office prior to approval by the SOI. The SOI may declare an inmate ineligible for vacation credit because of an inmate's unsatisfactory work performance during the month in which such credit was to occur.

(a) An inmate may take accrued vacation time for visits, participation in institution programs or for other good reasons at the discretion of the SOI. Industrial managers should make every reasonable attempt to schedule an inmate worker's vacations so as not to conflict with the workforce requirements of FPI factory production schedules and Inmate Systems Management requirements.

(b) An inmate temporarily assigned to the Industrial detail, e.g., on construction details, also earns vacation credit which he or she must take or be paid for at the end of the temporary assignment.

(c) An inmate must take and/or be paid for vacation credit within sixty days after each annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate who elects not to take vacation time must indicate this in writing. That inmate shall receive pay for the annual vacation credit in a lump sum on the regular monthly payroll. This amount is ordinarily paid within sixty days after the annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall be paid for this credit on the monthly payroll.

§ 345.57 Administrative pay.

An inmate excused from a job assignment may receive administrative pay for such circumstances as a general recall for an institution, power outages, blood donations, or other situations at the discretion of the SOI. Such pay may not exceed an aggregate of three hours per month.

§ 345.58 Holiday pay.

An inmate worker in FPI work status shall receive pay at the standard hourly rate, plus longevity where applicable, for all Federal holidays provided the inmate is in work status on the day before and the day after the holiday occurs. Full-time workers receive one full day's pay. Part-time workers receive one-half day's pay.

§ 345.59 Inmate performance pay.

Inmate workers for FPI may also receive Inmate Performance Pay for participation in programs where this award is made. However, inmate workers may not receive both Industries Pay and Performance Pay for the same program activity. For example, an inmate assigned to a pre-industrial class may not receive FPI pay as well as inmate performance pay for participation in the class.

§ 345.60 Training pay.

Inmates directed by the SOI to take a particular type of training in connection with a FPI job are to receive FPI pay if the training time occurs during routine FPI factory hours of operation. This does not include ABE/GED or pre-industrial training.

§ 345.61 Inmate earnings statement.

Each inmate worker in FPI shall be given a monthly earnings statement while actively working for FPI.

§ 345.62 Inmate accident compensation.

An inmate worker shall be paid lost-time wages while hospitalized or confined to quarters due to work-related injuries (including occupational disease or illnesses directly caused by the worker's job assignments) as specified by the Inmate Accident Compensation Program (28 CFR part 301).

§ 345.63 Funds due deceased inmates.

Funds due a deceased inmate for work performed for FPI are payable to a legal representative of the inmate's estate or in accordance with the law of descent and distribution of the state of domicile.

§ 345.64 Referral of releasable medical data to FPI staff.

The SOI is responsible for ensuring that appropriate releasable information pertaining to an inmate's medical limitation (e.g., back injury) is made available to the FPI staff member who directly supervises the assignment.

§ 345.65 Inmate medical work limitation.

In addition to any prior illnesses or injuries, medical limitations also include any illness or injury sustained by an inmate which necessitates removing the ill worker from an FPI work assignment. If an inmate worker is injured more than once in a comparatively short time, and the circumstances of the injury suggest an awkwardness or ineptitude which in turn indicates that further danger exists, the inmate may be removed to another FPI detail or to a non-FPI detail.

§ 345.66 Claims limitation.

Claims relating to pay and/or benefits must occur within one calendar year of the period of time for which the claim is made. Inmate claims submitted more than one year after the time in question require the approval of the Assistant Director before an inmate may receive such pay and/or benefit.

§ 345.67 Retention of benefits.

(a) *Job Retention*. Ordinarily, when an inmate is absent from the job for a significant period of time, the SOI will fill that position with another inmate, and the first inmate will have no entitlement to continued FPI employment.

(1) For up to the first 30 days when an inmate is in medical idle status, that inmate will retain FPI pay grade status, with suspension of actual pay, and will be able to return to FPI when medically able, provided the absence was not because of a FPI work-related injury resulting from the inmate's violation of safety standards. If the medical idle lasts longer than 30 days, was not caused by a violation of safety standards, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(2) Likewise, for up to the first 30 days when an inmate is in Administrative Detention, that inmate may retain FPI pay grade status, with actual pay suspended, and will be able to return to FPI, provided the inmate is not found to have committed a prohibited act. If Administrative Detention lasts longer than 30 days, and the inmate is not found to have committed a prohibited act, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(3) An inmate in Administrative Detention, and found to have committed a prohibited act, may return to FPI work status at the discretion of the SOI.

(4) If an inmate is injured and absent from the job because of a violation of FPI safety standards, the SOI may reassign the inmate within FPI or recommend that the unit team reassign the inmate to a non-FPI work assignment.

(5) If an inmate is transferred from one institution to another for administrative (not disciplinary) reasons, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(b) *Longevity and vacation credit.* Ordinarily, when an inmate's FPI employment is interrupted, the inmate loses all accumulated longevity and vacation credit with the following exceptions:

(1) The inmate retains longevity and vacation credit when placed in medical idle status, provided the medical idle is not because of a FPI work-related injury resulting from the inmate's violation of safety standards. If the medical idle results from a FPI work-related injury where the inmate was not at fault, the inmate also continues to earn longevity and vacation credit.

(2) Likewise, the inmate retains, and continues earning for up to 30 days, longevity and vacation credit if placed in Administrative Detention, provided the inmate is not found to have committed a prohibited act.

(3) The inmate retains, but does not continue earning, longevity and vacation credit when transferring from one institution to another for administrative (not disciplinary) reasons, when absent from the institution on writ, or when placed in administrative detention and found to have committed a prohibited act.

(c) *Pay grade retention.* Ordinarily, when an inmate's FPI employment is interrupted, that inmate is not entitled to retain his or her pay grade, with the following exceptions.

(1) An inmate retains pay grade status, with actual pay suspended, for up to 30 days in Administrative Detention. However, the inmate is not reimbursed for the time spent in detention.

(2) Likewise, an inmate retains pay grade status for up to 30 days while absent from the institution on writ, with actual pay suspended. The SOI may approve pay grade retention when an inmate is on writ for longer than 30 days on a case-by-case basis.

(3) If an inmate is absent because of a FPI work-related injury where the inmate was not at fault, the inmate retains his or her pay grade, with actual pay suspended.

Subpart G—Awards Program

§ 345.70 General.

FPI provides incentive awards of various types to inmate workers for special achievements in their work, scholarship, suggestions, for inventions which improve industry processes or safety or which conserve energy or materials consumed in FPI operations, and for outstanding levels of self-development.

§ 345.71 Official commendations.

An inmate worker may receive an official written commendation for any suggestion or invention adopted by FPI, or for any special achievement, as determined by the SOI, related to the inmate's industrial work assignment. A copy of the commendation is to be placed in the inmate's central file.

§ 345.72 Cash bonus or cash award.

An inmate worker may receive a cash bonus or cash award for any suggestion or invention which is adopted by FPI and produces a net savings to FPI of at least $250.00. Cash awards shall be one percent of the net estimated savings during the first year, with the minimum award being $25.00, and the maximum award being $1,000.00.

§ 345.73 Procedures for granting awards for suggestions or inventions.

Inmate suggestions for improvements in operations or safety, or for conservation of energy or material, must be submitted in writing.

(a) The inmate's immediate supervisor shall review the suggestion and forward it with comments and award recommendation to the SOI.

(b) The SOI shall ensure that all inmate suggestions and/or inventions formally submitted are considered for incentive awards by a committee comprised of Industries personnel designated by the SOI.

(1) The committee is authorized to award a cash award of up to $100.00 or an equivalent gift not to exceed $100.00 in value to an inmate whose suggestion has been adopted. A recommendation for an award in excess of $100.00 shall be forwarded to the Assistant Director for a final decision.

(2) The committee shall forward all recommendations for awards for inventions through the SOI to the Warden. The Warden may choose to add his or her comments before forwarding to the Assistant Director for a final decision.

(3) Incentive awards are the exclusive methods for recognizing inmates for suggestions or inventions.

§ 345.74 Awards for special achievements for inmate workers.

While recognition of inmate worker special achievements may originate from any FPI staff member, the achievement ordinarily will be submitted in writing by the inmate's immediate supervisor.

(a) The SOI shall appoint a local institution committee to consider inmates for special achievement awards.

(b) The committee shall forward its recommendations to the SOI, who is authorized to approve individual awards (cash or gifts) not to exceed $100 in value. A recommendation for an award in excess of $100 (cash or gifts) shall be forwarded, with the Superintendent's recommendation and the justification for it, through the Warden to the Assistant Director. The Warden may submit comments on the recommendation.

Subpart H—FPI Inmate Training and Scholarship Programs

§ 345.80 General.

As earnings permit, FPI provides appropriate training for inmates which is directly related to the inmate worker's job assignment. Additionally, FPI administers a scholarship program to provide inmates with an opportunity to begin, or to continue with business and industry courses or vocational training.

(a) An applicant for FPI-funded training programs should be evaluated to determine sufficient interest and preparation to successfully complete the course content. The evaluation may be done by the Education Department, unit team, or other qualified personnel.

(b) An inmate selected to participate in FPI-funded training programs ordinarily must have enough sentence time remaining to serve to complete the training.

§ 345.81 Pre-industrial training.

FPI encourages the development and use of pre-industrial training programs. Such training ordinarily provides benefits to the inmate and to the FPI factory. Pre-industrial training also provides an additional management tool for replacing inmate idleness with constructive activity. Accordingly, each FPI factory location may provide a pre-industrial training program.

(a) Pre-industrial program trainees shall ordinarily begin at the entry level pay grade (grade 5). Positions for pre-industrial training programs are filled in the same manner as other grade five positions.

(b) Pre-industrial training is not a prerequisite for work placement if the inmate already possesses the needed skill.

(c) If pre-industrial training is available and the worker has not completed both the skill training and orientation phases of pre-industrial training, the inmate should be put into the first available training class.

(d) When pre-industrial training is not available, new FPI assignees will receive

on-the-job training in pre-industrial pay status for a period of at least 30 days before being promoted into available fourth grade jobs.

§ 345.82 Apprenticeship training.

FPI provides inmate workers with an opportunity to participate in apprenticeship training programs to the extent practicable. Such programs help prepare workers for post-release employment in a variety of trades. Apprentices are given related trades classroom instruction in addition to the skill training during work hours, where necessary.

§ 345.83 Job safety training.

FPI provides inmates with regular job safety training which is developed and scheduled in coordination with the institution Safety Manager. Participation in the training shall be documented in a safety training record signed by the inmate.

§ 345.84 The FPI scholarship fund.

FPI shall award post-secondary school scholarships to selected, qualified inmate workers. These scholarships provide an inmate with the opportunity to begin or continue with business and industry courses or vocational training as approved and deemed appropriate by the Supervisor of Education.

(a) *Eligibility Requirements.* The SOI and the Supervisor of Education at each institution shall develop application procedures to include, at a minimum, the following criteria:

(1) The inmate shall be a full-time FPI worker.

(2) The inmate has a favorable recommendation for participation from his or her work supervisor.

(3) The inmate meets all relevant institution requirements for participation (e.g. disciplinary record, custody level).

(4) The inmate is accepted by the institution of higher learning offering the course or program which is requested.

(5) The inmate must maintain a verifiable average of ''C'' or better to continue program eligibility.

(6) Before beginning the course of study, the inmate must sign an agreement to provide the SOI with an unaltered, original copy of his or her grades.

(b) *Scholarship Selection Procedures.* FPI scholarship awards shall be made by a three member Selection Committee comprised of the SOI, the Supervisor of Education, and one other person designated by the SOI.

(c) *Scholarship Program Operation.*

(1) Ordinarily, one scholarship may be awarded per school period for every fifty workers assigned. At least one scholarship may be awarded at each institution location, regardless of the number of inmates assigned.

(2) Individual scholarships ordinarily should not exceed the cost of tuition and books for one course. Where several courses may be taken for the same cost as one, the inmate worker may be allowed to take more than one course.

(3) Scholarship monies are to be paid only to the institution providing instruction, or to the Education Department for transfer of funds to the college, university, or technical institution providing instruction.

(4) An inmate may not receive more than one scholarship per school period.

(5) An inmate must maintain at least a ''C'' average to be continued as eligible for further assistance. An inmate earning less than ''C'' must wait one school period of eligibility before reapplying for further assistance. Where a course grade is based on a ''pass/fail'' system, the course must be ''passed'' to be eligible for further assistance.

(6) An inmate awarded a correspondence course must successfully complete the course during a school year (e.g., 2 semesters, 3 quarters).

(7) An inmate receiving scholarship aid must have approval from the SOI and the Supervisor of Education before withdrawing from classes for good reason. An inmate withdrawing or ''dropping'' courses without permission shall wait one school year before applying for further scholarship assistance. An inmate may withdraw from courses without penalty for medical or non-disciplinary administrative reasons such as transfer, writ, release, etc., without first securing permission, although withdrawals for medical reasons must be certified in writing by the Hospital Administrator.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 545—WORK AND COMPENSATION

2. The authority citation for 28 CFR part 545 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3572, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4126, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart E [Removed]

Subpart F [Removed]

Subpart G [Removed]

3. In 28 CFR part 545, subpart E, consisting of §§ 545.40 through 545.43, subpart F, consisting of §§ 545.50 through 545.56, and subpart G, consisting of §§ 545.60 through 545.64, are removed.

[FR Doc. 95–7463 Filed 3–24–95; 8:45 am]

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Federal Register

Monday
March 27, 1995

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Policy Development and Research

24 CFR Part 570

Joint Community Development Program: Institutions of Higher Education and States/Units of General Local Government; Special Purpose Grants; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

24 CFR Part 570

[Docket No. R–95–1684; FR–3415–F–03]

Joint Community Development Program: Institutions of Higher Education and States/Units of General Local Government; Special Purpose Grants

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes the requirements and procedures for awarding and administering special purpose grants under Title I of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, to institutions of higher education or to States and units of general local government and institutions of higher education jointly submitting applications to HUD. Institutions of higher education must demonstrate that they have the capacity to carry out eligible activities.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, (202) 708–1537. The Telecommunications Device for the Deaf (TDD) number is (202) 708–1455. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and have been assigned OMB approval number 2535–0084.

II. Background

Section 801(c)(2) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) amended Section 107 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) to add a new category of special purpose grants. This new program authorizes grants to institutions of higher education or to States and units of general local government and institutions of higher education that jointly submit applications to HUD. Institutions of higher education must demonstrate capacity to carry out eligible activities under Title I. This rule implements this new grant authority. For ease of reference, this new program may be called the Joint Community Development (CD) Program.

III. Summary of Final Rule

Following are the highlights of the rule that will govern the grants under the Joint CD Program:

1. A new section 570.411 is being added to Subpart E, Special Purpose Grants, of the Community Development Block Grant (CDBG) regulations to govern grants under this program. It should be noted that section 570.400, which contains general requirements for all special purpose grant programs, applies to this new program as well. Additionally, grantees must comply with the Americans with Disabilities Act of 1990.

2. Section 570.411(b) provides definitions for ''demonstrated capacity'' and ''institutions of higher education.''

3. Section 570.411(c) defines eligible applicants. It indicates that an application must be filed either by an institution of higher education or jointly by an institution of higher education and a State or unit of general local government. This subsection also states that HUD will not fund an applicant twice for the same kinds of activities.

4. Section 570.411(d) spells out the role of each participant in the joint applications.

5. Section 570.411(e) defines the eligible activities as those eligible under the basic CDBG regulations found in subpart C of part 570. It also makes clear that these activities may be designed to assist residents of colonias to improve living conditions and standards within colonias.

6. Section 570.411(f) indicates that the program will be run competitively through publication of a Notice of Funding Availability (NOFA).

7. Section 570.411(g) provides that when an institution of higher education or a State which is a joint applicant proposes to carry out an activity within the entitlement jurisdiction of one or more units of general local government, then such governments must approve the activity and certify that it is consistent with their consolidated plan (see 24 CFR part 91).

8. Section 570.411(h) provides a general description of what will be contained in each NOFA.

9. Sections 570.411 (i) and (j) detail the selection criteria that HUD will use to evaluate applications under each NOFA competition.

10. Section 570.411(l) spells out that an applicant proposing housing activities will have to submit a certification that the activities are consistent with the Consolidated Plan of the jurisdiction to be served.

11. Section 570.411(m) deals with the citizen participation requirement under the Joint CD Program. It is a modified version of the basic CDBG requirement and is similar to that used in other special purpose grant programs.

12. Section 570.411(n) provides details on environmental review responsibilities for this program.

IV. Discussion of Public Comments

A proposed rule was published in the **Federal Register** on December 29, 1993, at 58 FR 68795, and the public was given 60 days in which to submit comments. Three comments were received on the proposed rule: one from a university, one from a city and one from an association of institutions of higher education. Following are the comments made and HUD's response to each comment.

Comment. The definition of eligible institution of higher education should be broadened to include community colleges.

Response. Community colleges generally do not have the capacity to undertake the kinds of activities that will be eligible under this program. With a limited amount of funds and a very large number of qualified four-year institutions applying for these funds, it would be unfair to community colleges to have them expend time and costs to prepare applications when their chances of being successful are very limited. Therefore, the proposed definition was not changed.

Comment. The rule should spell out in greater detail the program objectives and not leave this for the Notice of Funding Availability (NOFA).

Response. The precise program objectives may change from time-to-time. Each NOFA will spell out the precise objective for that competition. Therefore, the objectives will not be included in the rule but in the NOFA.

Comment. Grants should be limited to those institutions that meet the Federal definition of ''urban'' universities.

Response. There is no Federal government-wide definition of urban universities. The definition cited by the commenter is not a Federal definition but restricted to a specific program in the U.S. Department of Education. The Joint CD program has no statutory provision limiting grants to urban universities, nor does HUD feel that

such a restriction is appropriate, given the interest of many different kinds of institutions of higher education in addressing CDBG needs. Therefore, the comment was not accepted.

Comment. All applications from States or units of local governments must demonstrate support from an institution of higher education.

Response. Such a demonstration of support is inherent in the requirement that applications from governments must be filed jointly with an institution of higher education. HUD does not believe that any further demonstration of support is needed or desirable.

Comment. Two commenters indicated that the provision in section 570.411(c) that eligible applicants will be funded only every other funding cycle is not clear. They questioned whether grants would be for one year or two year periods.

Response. A funding cycle is determined each time HUD issues a NOFA. A decision regarding the length of the grant will be made at the time each NOFA is issued and delineated in the NOFA. Since HUD expects that each NOFA may deal with different priorities and eligible activities, it is not prudent to identify the project period in the regulations. In addition, HUD has revised the requirement that eligible applicants be funded only every other funding cycle to prohibit grantees that are institutions of higher education from receiving any subsequent grants from NOFAs with the same program objectives as those for which they received funding. State or local governments may apply in subsequent cycles in which the NOFA contains the same program objectives as long as they apply with a different institution of higher education. The need for these funds is great, as is the number of institutions and governments interested in applying. HUD believes that it would be unwise to concentrate the funds among a few institutions.

V. Other Matters

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies in this rule do not have Federalism implications and, thus, are not subject to review under the Order. Nothing in the rule implies any preemption of State or local law, nor does any provision of the rule disturb the existing relationship between the Federal Government and State and local governments.

Executive Order 12606, the Family

The General Counsel, as the designated Official under Executive Order 12606, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order.

Environmental Finding

A Finding of No Significant Impact with regard to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities inasmuch as the entities funded under this program will be relatively few in number. Consequently, HUD does not believe that a significant number of small entities will be affected by this program. The application requirements associated with funding under the program have been kept to the minimum necessary for administration of grant funds, and the Department does not believe it is necessary or appropriate to alter these requirements as they apply to small entities who may be prospective grantees.

Semiannual Agenda

This final rule was listed as item 1849 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57665) under Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Joint Community Development Program is listed in the Catalog of Federal Domestic Assistance under number 14.242.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

2. Section 570.411 is added to subpart E, to read as follows:

§ 570.411 Joint Community Development Program.

(a) *General.* Grants under this section will be awarded to institutions of higher education or to States and local governments applying jointly with institutions of higher education. Institutions of higher education must demonstrate the capacity to carry out activities under Title I of the Housing and Community Development Act of 1974. For ease of reference, this program may be called the Joint CD Program.

(b) *Definitions.*

Demonstrated capacity to carry out eligible activities under Title I means recent satisfactory activity by the institution of higher education's staff designated to work on the program, including subcontractors and consultants firmly committed to work on the proposed activities, in Title I programs or similar programs without the need for oversight by a State or unit of general local government.

Institution of higher education means a college or university granting 4-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education.

(c) *Eligible applicants.* Institutions of higher education or States and units of general local government jointly with institutions of higher education may apply. Institutions of higher education with demonstrated capacity to carry out eligible activities under Title I may apply on their own, without the joint participation of a State or unit of general local government. States or unit of general local governments must file jointly with an institution of higher education. For these approved joint applications, the grant will be made to the State or unit of general local government and the institution of higher education jointly. If an eligible applicant is an institution of higher education, it will not be funded more

than once for the same kinds of activities. These grantees may not receive funding under a subsequent NOFA if it has the same program objectives as the one under which the grantee previously received funding. However, a State or unit of general local government is eligible to apply if it files jointly with a different institution of higher education in each NOFA cycle. HUD may further limit the type of eligible applicant to be funded. Any such limitations will be contained in the Notice of Funding Availability described below in paragraph (h) of this section.

(d) *Role of participants in joint applications.* An institution of higher education and a State or unit of general local government may carry out eligible activities approved in joint applications. Where there are joint applicants, the grant will be made to both and both will be responsible for oversight, compliance, and performance. The application will have to clearly delineate the role of each applicant in the joint application. Any funding sanctions or other remedial actions by HUD for noncompliance or nonperformance, whether by the State or unit of general local government or by the institution of higher education, shall be taken against both grantees.

(e) *Eligible activities.* Activities that may be funded under this section are those eligible under 24 CFR Part 570—Community Development Block Grants, Subpart C—Eligible Activities. These activities may be designed to assist residents of colonias, as defined in Section 916(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note), to improve living conditions and standards within colonias. HUD may limit the activities to be funded. Any such limitations will be contained in the Notice of Funding Availability described in paragraph (h) of this section.

(f) *Applications.* Applications will only be accepted from eligible applicants in response to a publication of a Notice of Funding Availability (NOFA) published by HUD in the **Federal Register**.

(g) *Local approval.* (1) Where an institution of higher education is the applicant, each unit of general local government that is an entitlement jurisdiction where an activity is to take place must approve the activity and certify that the activity is consistent with its Consolidated Plan.

(2) Where a State is the joint applicant and it proposes to carry out an activity within the jurisdiction of one or more units of general local government, then each such unit must approve the activity and state that the activity is consistent with its Consolidated Plan.

(3) These approvals and findings must accompany each application and may take the form of a letter by the chief executive officer of each unit of general local government affected or a resolution of the legislative body of each such unit of general local government.

(h) *NOFA contents.* The NOFA will describe any special objectives sought to be achieved by the funding to be provided, including any limitations on the type of activities to be funded to achieve the objectives, any limitations on the type of eligible applicants, and points to be awarded to each of the selection criteria and any special factors to be evaluated in assigning points under the selection criteria to achieve the stated objectives. The NOFA will also state the deadline for the submission of applications, the total funding available for the competition, the period of performance and the maximum and minimum amount of individual grants. The NOFA will also state which of the various possible levels of competition HUD will use: national and/or regional or entitlement areas vs. non-entitlement areas; and States or units of general local government vs. institutions of higher education vs. institutions of higher education with a demonstrated capacity. The NOFA will include further information and instructions for the submission of acceptable applications to HUD.

(i) *Selection criteria.* Each application submitted under this section will be evaluated by HUD using the following criteria:

(1) The extent to which the applicant addresses the objectives published in the NOFA and demonstrates how the proposed activities will have a substantial impact in achieving the objectives.

(2) The extent of the needs to be addressed by the proposed activities, particularly with respect to benefiting low- and moderate-income persons and residents of colonias, where applicable.

(3) The feasibility of the proposed activities, i.e., their technical and financial feasibility, for achieving the stated objectives.

(4) The capability of the applicant to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any previous HUD-assisted projects or activities.

(5) The extent of commitment to fair housing and equal opportunity, as indicated by such factors as previous HUD monitoring/compliance activity, actions to promote minority- and women-owned business enterprise, affirmatively furthering fair housing issues, and nondiscriminatory delivery of services.

(j) *Selection discretion.* HUD retains the right to exercise discretion in selecting projects in a manner that would best serve the program objectives, with consideration given to the needs of States and units of general local government and institutions of higher education, types of activities proposed, an equitable geographical distribution, and program balance. The NOFA will state whether HUD will use this discretion in any specific competition.

(k) *Certifications.* (1) Certifications, including those indicating that applicants have adhered to all civil rights requirements under subpart K of this part and the Americans with Disabilities Act of 1990, required to be submitted by applicants shall be as prescribed in the NOFA.

(2) In the absence of independent evidence which tends to challenge in a substantial manner the certifications made by the applicant, the required certifications will be accepted by HUD. However, if independent evidence is available, HUD may require further information or assurances to be submitted in order to determine whether the applicant's certifications are satisfactory.

(l) *Consolidated plan.* An applicant that proposes any housing activities as part of its application will be required to submit a certification that these activities are consistent with the Consolidated Plan of the jurisdiction to be served.

(m) *Citizen participation.* The citizen participation requirements of §§ 570.301, 570.431, 570.485(c) and 570.486(a) are modified to require the following: The applicant must certify that citizens likely to be affected by the project regardless of race, color, creed, sex, national origin, familial status, or handicap, particularly low- and moderate-income persons, have been provided an opportunity to comment on the proposal or application.

(n) *Environmental and Intergovernmental Review.* The requirements for Intergovernmental Reviews do not apply to these awards. When required, an environmental review in accordance with 24 CFR part 58 must be carried out by the State or unit of general local government when it is the applicant. HUD will conduct any required environmental review when an institution of higher education is the applicant.

(Approved by the Office of Management and Budget under control number 2535–0084)

Dated: March 17, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–7401 Filed 3–24–95; 8:45 am]

BILLING CODE 4210–62–P

Federal Register

Monday
March 27, 1995

Part V

The President

Proclamation 6779—Greek Independence Day: A Day of Celebration of Greek and American Democracy

Proclamation 6780—To Implement Certain Provisions of Trade Agreements Resulting From the Uruguay Round of Multilateral Trade Negotiations, and for Other Purposes

Federal Register
Vol. 60, No. 58
Monday, March 27, 1995

Presidential Documents

Title 3—

The President

Proclamation 6779 of March 23, 1995

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1995

By the President of the United States of America

A Proclamation

Two thousand five hundred years ago in Athens, across the Peninsula of Attica and throughout Greece, the idea of democracy was embodied in a series of rights and laws. The resulting freedom for the citizens of that land sparked a period of unprecedented activity in philosophy and the arts. The birth of democracy in Greece signaled the beginning of a lasting cultural transformation clearly reflected in the course of Western civilization.

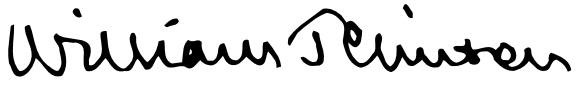
The United States is proud to acknowledge the debt it owes to the ancient Greeks, whose philosophy and political system guided America's founders in forming a representative democracy on this continent. Yet the common bond that unites our modern nations goes beyond our commitment to the principles of democracy; beyond, too, the close friendship that we share. Through the years, our citizens have demonstrated a willingness to fight for the right to self-determination and for the cause of human dignity. The Greek struggle for independence 174 years ago won the hearts of Americans and all those who love freedom. As we mark the anniversary of that momentous occasion, Americans and Greeks join again in celebration.

Our countries now stand at the dawn of a new era—a time of growing hope and expanding opportunity. Nations across Central Europe are striving to turn from ancient rivalries and to embrace the possibility of democratic, market-oriented change. The Greek dedication to independence can provide both an important example and a helping hand for its neighbors, and Greece's recent efforts to strengthen these ties can serve to foster stability and prosperity throughout the region.

Today, as ever, the United States supports Greece in its call for fellowship and peace. We stand together in affirming that the blessings of democracy will long survive and flourish.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 1995, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.'' I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of March, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.



[FR Doc. 95–7670
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Presidential Documents

Proclamation 6780 of March 23, 1995

To Implement Certain Provisions of Trade Agreements Resulting From the Uruguay Round of Multilateral Trade Negotiations, and for Other Purposes

By the President of the United States of America

A Proclamation

1. On April 15, 1994, I entered into trade agreements resulting from the Uruguay Round of multilateral trade negotiations (''the Uruguay Round Agreements''). In section 101(a) of the Uruguay Round Agreements Act (''the URAA'') (Public Law 103–465; 108 Stat. 4814) (19 U.S.C. 3511(a)), the Congress approved the Uruguay Round Trade Agreements listed in section 101(d) of that Act.

2. Pursuant to section 101(b) of the URAA, I decided to accept the Agreement Establishing the World Trade Organization (''the WTO Agreement'') on behalf of the United States, and I determined that the WTO Agreement entered into force for the United States on January 1, 1995.

3. (a) Sections 1102(a) and (e) of the Omnibus Trade and Competitiveness Act of 1988, as amended (''the 1988 Act'') (19 U.S.C. 2902(a) and (e)), authorize the President to proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any trade agreement entered into under these sections.

(b) Section 111(a) of the URAA (19 U.S.C. 3521(a)) authorizes the President to proclaim such other modification of any duty, such other staged rate reduction, or such other additional duties beyond those authorized by section 1102 of the 1988 Act (19 U.S.C. 2902) as the President determines to be necessary or appropriate to carry out Schedule XX—United Statesof America, annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994 (''Schedule XX'').

(c) Section 103(a) of the URAA (19 U.S.C. 3513(a)) authorizes the President to proclaim such actions as may be necessary to ensure that any provision or amendment made by the URAA that takes effect on the date that any of the Uruguay Round Agreements enters into force with respect to the United States is appropriately implemented on such date.

4. Proclamation 6763 of December 23, 1994, implemented the Uruguay Round Agreements, including Schedule XX, with respect to the United States; and incorporated in the Harmonized Tariff Schedule of the United States (''the HTS'') tariff modifications necessary and appropriate to carry out the Uruguay Round Agreements and certain conforming changes in rules of origin for the North American Free Trade Agreement (''NAFTA''). Certain technical errors, including inadvertent omissions, were made in that proclamation. I have determined that it is necessary, to reflect accurately the intended tariff treatment provided for in the Uruguay Round Agreements and to ensure the continuation of the agreed NAFTA rules of origin, to modify certain provisions of the HTS, as set forth in the Annex to this proclamation.

5. (a) One of the Uruguay Round Agreements approved by the Congress in sections 101(a) and 101(d) of the URAA (19 U.S.C. 3511(a) and (d)) is the Agreement on Trade-Related Aspects of Intellectual Property Rights (''the TRIPs Agreement'').

(b) Section 104A of title 17, United States Code, as amended by section 514 of the URAA, provides for copyright protection in restored works. Section 104A(h), as amended, provides that the date of restoration of a restored copyright shall be the date on which the TRIPs Agreement enters into forcewith respect to the United States, if the source country is a nation adhering to the Berne Convention or a World Trade Organization (WTO) member on such date.

(c) Article 65, paragraph 1, of the TRIPs Agreement provides that no WTO member shall be obliged to apply the provisions of this Agreement until one year after the date of entry into force of the WTO Agreement. The date of entry into force of the WTO Agreement with respect to the United States was January 1, 1995.

(d) The statement of administrative action, approved by the Congress in section 101(a)(2) of the URAA (19 U.S.C. 3511(a)(2)), provides that, ''in general, copyright will be restored on the date when the TRIPs Agreement's obligations take effect for the United States.''

(e) Accordingly, I have decided that it is necessary and appropriate, in order to implement the TRIPs Agreement and to ensure that section 514 of the URAA is appropriately implemented, to proclaim that the date on which the obligations of the TRIPs Agreement will take effect for the United States is January 1, 1996.

6. (a) Section 902(a)(2) of title 17, United States Code, authorizes the President to extend protection under chapter 9 of title 17, United States Code, to mask works of owners who are nationals, domiciliaries, or sovereign authorities of, and to mask works, which are first commercially exploited in, a foreign nation that grants United States mask work owners substantially the same protection that it grants its own nationals and domiciliaries, or that grants protection to such works on substantially the same basis as does chapter 9 of title 17, United States Code.

(b) Australia, Canada, Japan, Switzerland, and the Member States of the European Community provide adequate and effective protection for mask works within the meaning of 17 U.S.C. 902(a)(2), and have been subject to interim protection under 17 U.S.C. 914. Consequently, I find that these countries satisfy the requirements of 17 U.S.C. 902(a)(2), and are to be extended full protection under chapter 9 of title 17, United States Code, effective on July 1, 1995.

(c) In addition, 17 U.S.C. 902(a)(1)(A)(ii) provides that mask work owners who are nationals, domiciliaries, or sovereign authorities of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party are eligible for protection under chapter 9 of title 17, United States Code. The TRIPs Agreement, which requires all WTO members to provide protection equivalent to that provided under chapter 9 of title 17 on the basis of national treatment, is such an agreement. Because the United States is a member of the WTO and thus of the TRIPs Agreement, and because the TRIPs Agreement will be effective for the United States on January 1, 1996, all other WTO members will become eligible for full protection under chapter 9 of title 17, United States Code, on January 1, 1996.

7. Section 491 of the Trade Agreements Act of 1979, as amended (''the 1979 Act'') (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization. I have decided to designate the Department of Agriculture as the agency responsible for providing the public with this information.

8. (a) The March 24, 1994, Memorandum of Understanding on the Results of the Uruguay Round Market Access Negotiations on Agriculture Between the United States of America and Argentina (''the MOU''), submitted to the Congress along with the Uruguay Round Agreements, provides for ''an appropriate certificate of origin'' for imports of peanuts and peanut butter and peanut paste from Argentina.

(b) Proclamation 6763 proclaimed the Schedule XX tariff rate quotas for peanuts and peanut butter and peanut paste. However, that proclamation did not specify which agency should implement the MOU.

(c) Section 404 of the URAA (19 U.S.C. 3601) requires the President to take such action as may be necessary to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

(d) Accordingly, I have decided to delegate to the United States Trade Representative (''the USTR'') my authority under section 404 of the URAA to implement the MOU, through such regulations as the USTR, or, at the direction of the USTR, other appropriate agencies, may issue.

9. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483) (''the 1974 Act''), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 301 of title 3, United States Code, section 902(a)(1) and (2) of title 17, United States Code, section 604 of the 1974 Act, as amended (19 U.S.C. 2483), section 491 of the 1979 Act, as amended (19 U.S.C. 2578), section 1102 of the 1988 Act, as amended (19 U.S.C. 2902), title I of the URAA (19 U.S.C. 3511–3551), and section 404 of the URAA (19 U.S.C. 3601), do hereby proclaim that:

(1) To more completely implement the tariff treatment accorded under the Uruguay Round Agreements, the HTS is modified as set forth in the Annex to this proclamation.

(2) The obligations of the TRIPs Agreement shall enter into force for the United States on January 1, 1996.

(3) Australia, Canada, Japan, Switzerland, and the Member States of the European Community shall be extended full protection under chapter 9 of title 17, United States Code, effective on July 1, 1995. In addition, as of January 1, 1996, full protection under chapter 9 of title 17, United States Code, shall be extended to all WTO Members.

(4) The Secretary of Agriculture is designated, under section 491 of the 1979 Act, as amended (19 U.S.C. 2578), as the official responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization.

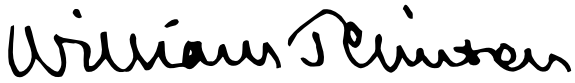
(5) The USTR is authorized to exercise my authority under section 404 of the URAA (19 U.S.C. 3601) to implement the MOU with Argentina, through such regulations as the USTR, or, at the direction of the USTR, other appropriate agencies, may issue.

(6) In order to make conforming changes and technical corrections to certain HTS provisions, pursuant to actions taken in Proclamation 6763, the HTS and Proclamation 6763 are modified as set forth in the Annex to this proclamation.

(7) All provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(8) This proclamation shall be effective upon publication in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of March, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.



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Annex

Section A. Modifications to the Harmonized Tariff Schedule of the United States ("HTS").

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special" and "Rates of Duty 2", respectively.

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

(1). General note 12 is modified by:

(a). in subdivision (f)(iii)(A) deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof.

(b). in subdivision (f)(iii)(B) deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof; deleting "1901.10.15" and inserting "1901.10.05, 1901.10.15" in lieu thereof; deleting "1901.20.05" and inserting "1901.20.02, 1901.20.05" in lieu thereof; and deleting "1901.90.31, 1901.90.41 or 1901.90.81" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof.

(c). in subdivision (r)(v)(A) deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof.

(d). in subdivision (s)(i)(C) deleting "or 2106.90.46" and inserting "2106.90.42, 2106.90.44 or 2106.90.46" in lieu thereof.

(e). in subdivision (t):

(i) for chapter 4 tariff classification rule, deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

(ii) for chapter 18 tariff classification rule 2, deleting "1806.10.45" and inserting "1806.10.43, 1806.10.45" in lieu thereof;

(iii) for chapter 19:

(1) tariff classification rule 1, deleting "1901.10.15" and inserting "1901.10.05, 1901.10.15" in lieu thereof;

(2) tariff classification rule 3, deleting "1901.20.05" and inserting "1901.20.02, 1901.20.05" in lieu thereof;

(3) tariff classification rule 5, deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

(iv) for chapter 20 tariff classification rule 2, deleting "2008.11.25" and inserting "2008.11.22, 2008.11.25" in lieu thereof;

(v) for chapter 21:

(1) tariff classification rule 9, deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

Section A. (continued)

(1). (con.):
(e). in subdivision (t) (con.):
(v) for chapter 21 (con.):
(2) tariff classification rule 10, deleting "2106.90.46" and inserting "2106.90.48" in lieu thereof;

(3) tariff classification rule 12, deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

(vi) for chapter 22:
(1) tariff classification rule 3, deleting "2106.90.46" and inserting "2106.90.48" in lieu thereof;

(2) tariff classification rule 5, deleting "2202.90.24" and inserting "2202.90.22, 2202.90.24" in lieu thereof and deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

(vii) for chapter 23 tariff classification rule 3, deleting "2309.90.24" and inserting "2309.90.22, 2309.90.24" in lieu thereof and deleting "1901.90.42 or 1901.90.44" and inserting "1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43" in lieu thereof;

(viii) for chapter 90 tariff classification rule 21, deleting "item 9009.90.40" and inserting "items 9009.90.10 and 9009.90.30" in lieu thereof.

(2). General note 13 is modified by deleting "any product (by whatever name known) classifiable in such provision (and not dutiable under column 2) shall be entered free of duty," and inserting "any product (by whatever name known) classifiable in such provision which is the product of a country eligible for tariff treatment under column 1 shall be entered free of duty," in lieu thereof.

(3). General note 14 is modified by deleting "any product classifiable in such provision (and not dutiable under column 2) shall be entered free of duty," and inserting "any product classifiable in such provision which is the product of a country eligible for tariff treatment under column 1 shall be entered free of duty," in lieu thereof.

(4). Additional U.S. note 1 to chapter 4 is modified by deleting such note and inserting the following note in lieu thereof:

"1. For the purposes of this schedule, the term "dairy products described in additional U.S. note 1 to chapter 4" means any of the following goods: malted milk, and articles of milk or cream (except (a) white chocolate and (b) inedible dried milk powders certified to be used for calibrating infrared milk analyzers); articles containing over 5.5 percent by weight of butterfat which are suitable for use as ingredients in the commercial production of edible articles (except articles within the scope of other import quotas provided for in additional U.S. notes 2 and 3 to chapter 18); or dried milk, whey or buttermilk (of the type provided for in subheadings 0402.10, 0402.21, 0403.90 or 0404.10) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the ultimate consumer in the identical form and package in which imported."

(5). Additional U.S. note 20 to chapter 4 is modified by deleting the quota amount of "235,500" for Argentina and inserting "235,000" in lieu thereof.

Annex (con.)
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Section A. (continued)

(6). Additional U.S. note 24 to chapter 4 is modified by deleting "in the subheadings provided for in additional U.S. note 17 to this chapter and subject to the quantitative limitations of such additional U.S. note 17." and inserting "in the subheadings for blue-mold cheeses and is subject to any quantitative limitation on such cheeses." in lieu thereof.

(7). Additional U.S. note 2 to chapter 12 is modified by adding the following new subdivision (c):

"(c) Imports of peanuts under this note are subject to regulations as may be issued by the United States Trade Representative or other designated agency."

(8). Additional U.S. note 11 to chapter 17 is renumbered as additional U.S. note 10.

(9). Additional U.S. note 5 to chapter 20 is modified by adding at the end of the note the following new paragraph:

"Imports of peanut butter and paste under this note are subject to regulations as may be issued by the United States Trade Representative or other designated agency."

(10). The Rates of Duty 1-Special subcolumn for subheading 2005.70.23 is modified by inserting, in alphabetical order, the symbols "A", "E" and "J" in the parentheses following the Free rate of duty in such subcolumn.

(11). The article description for subheading 2008.99.65 is deleted and the article description "Cassava (manioc)" is inserted in lieu thereof.

(12). The Rates of Duty 1-Special subcolumn for subheading 2918.21.10 is modified by deleting the symbol "K" in the parentheses following the Free rate of duty in such subcolumn.

(13). The Rates of Duty 1-Special subcolumn for subheading 2922.50.11 is modified by inserting, in alphabetical order, the symbol "K" in the parentheses following the Free rate of duty in such subcolumn.

(14). The Rates of Duty 1-Special subcolumn for the subheadings listed in this paragraph is modified by inserting, in alphabetical order, the symbol "L" in the parentheses following the Free rate of duty in such subcolumn.

2914.70.90	2918.29.25	2922.19.70	2922.30.17
2917.19.20	2918.29.65	2922.29.29	2933.40.60
2918.29.04	2918.29.75	2922.29.60	2933.40.70

(15). The Rates of Duty 2 column for subheading 3213.90.00 is modified by deleting the rate set forth in such column and inserting "48.6%" in lieu thereof.

(16). The article description for subheading 3402.11.20 is deleted and the article description "Linear alkylbenzene sulfonic acid and linear alkylbenzene sulfonates" is inserted in lieu thereof.

(17). Subheadings 3912.31.20 and 3912.31.60 are superseded by:

	[Cellulose and its chemical derivatives,...]			
	[Cellulose ethers:]			
"3912.31.00	Carboxymethylcellulose and its salts.....	6.4%	Free (A,CA,E,IL, J,K,MX)	66%"

(18). The article description for subheading 5112.19.20 is deleted and the article description "Tapestry fabrics and upholstery fabrics" is inserted in lieu thereof.

(19). The article description for subheading 5701.10.40 is deleted and the article description "Hand-hooked, that is, in which the tufts were inserted and knotted by hand or by means of a hand tool" is inserted in lieu thereof.

Section A. (continued)

(20). The article description for subheading 5703.20.10 is deleted and the article description "Hand-hooked, that is, in which the tufts were inserted by hand or by means of a hand tool" is inserted in lieu thereof.

(21). The article description for subheading 8424.89.30 is deleted and the article description "Spraying appliances designed for etching, stripping or cleaning semiconductor wafers" is inserted in lieu thereof.

(22). Subheadings 8443.19.60 and 8443.19.80 and the superior text immediately preceding subheading 8443.19.60 are superseded and the following provisions are inserted in numerical sequence:

	[Printing machinery; machines for uses...:]		
	[Offset printing machinery:]		
	[Other:]		
"8443.19.90	Weighing 1,600 kg or more.....	Free	25%"

(23). The article description for subheading 8471.91.40 is modified by deleting "in an automatic data processing machines" and inserting "in automatic data processing machines" in lieu thereof.

(24). The article description for subheading 8477.10.40 is deleted and the article description "For use in the manufacture of video laser discs" is inserted in lieu thereof.

(25). The article description for subheading 8479.89.85 is deleted and the article description "Machines for processing of semiconductor materials; machines for production and assembly of diodes, transistors and similar semiconductor devices and electronic integrated circuits; machines for the manufacturing of video laser discs" is inserted in lieu thereof.

(26). The Rates of Duty 2 column for subheading 9106.90.55 is modified by deleting the rate set forth in such column and inserting "$4.50 each + 65%" in lieu thereof.

(27). The Rates of Duty 2 column for subheading 9106.90.75 is modified by deleting the rate set forth in such column and inserting "$4.50 each + 65%" in lieu thereof.

(28). U.S. note 1 to subchapter VIII of chapter 98 is modified by deleting such note and inserting the following note in lieu thereof:

"1. With respect to subheading 9808.00.80, goods brought into the customs territory of the United States by the National Aeronautics and Space Administration from space or from a foreign country as part of an international program of the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required."

(29). Subheading 9808.00.80 and the superior text immediately preceding subheading 9808.00.80 are superseded and the following provisions are inserted in numerical sequence:

	"Articles for the National Aeronautics and Space Administration and articles imported to implement international programs between the National Aeronautics and Space Administration and foreign entities, including launch services agreements:		
9808.00.80	Goods certified by it to the Commissioner of Customs to be imported for use of the National Aeronautics and Space Administration or for implementation of an international program of the National Aeronautics and Space Administration, including articles to be launched into space and parts thereof, ground support equipment and uniquely associated equipment for use in connection with an international program of the National Aeronautics and Space Administration, including launch services agreements.....	Free	Free"

Section A. (continued)

(30). U.S. note 1(c) to subchapter XIII of chapter 98 is modified by deleting "paid to Canada or Mexico." and inserting "paid to Canada or to Mexico on the exported article, unless such article is covered by section 203(a)(1) through 203(a)(8), inclusive, of the NAFTA Implementation Act." in lieu thereof.

(31). Subheading 9905.51.12 is deleted.

(32). The article description for subheading 9906.61.01 is modified by deleting the parenthetical phrase from such article description and inserting the parenthetical phrase "(provided for in subheading 6104.39.20)" in lieu thereof.

Section B. Modifications to Proclamation 6763.

(1). For sections A(8)(g)(xi)(C) and (E) the effective date of these modifications to general note 12 of the HTS shall be January 1, 1994.

(2). In section A(144)(a) the article description for subheading 2933.90.89 is deleted and the following article description "Hexamethyleneimine" is inserted in lieu thereof.

(3). Section B(1) is modified by deleting "Additional U.S. note 4 to chapter 18" and inserting "Additional U.S. note 2 to chapter 18" in lieu thereof.

(4). Section D(1) is modified for subheading 2401.20.30 by deleting the rate of duty in the columns for the years 2000 through 2004, inclusive, and inserting the rate of duty "40.9¢/kg" in lieu thereof.

(5). Section D(1) is modified for subheadings 6115.93.15 and 7302.30.00 by deleting the rates of duty in the columns for the years 1995 through 2004, inclusive, and inserting the following rates of duty in lieu thereof.

HTS Subheading	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
6115.93.15	4.6%	3.5%	2.3%	1.2%	Free	Free	Free	Free	Free	Free
7302.30.00	4.6%	3.4%	2.3%	1.1%	Free	Free	Free	Free	Free	Free

(6). Section G(1) is modified by renumbering 0406.90.34, 0406.90.44, 7019.10.05 and 7019.10.24 as 0406.90.33, 0406.90.43, 7019.10.10 and 7019.10.28, respectively.

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LIST OF PUBLIC LAWS

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S. 377/P.L. 104–5

To amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes. (Mar. 23, 1995; 109 Stat. 72; 1 page)

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CFR CHECKLIST

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1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
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50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–022–00102–7)	8.00	Apr. 1, 1994
27 Parts:			
1–199	(869–022–00103–5)	36.00	Apr. 1, 1994
200–End	(869–022–00104–3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869–022–00105–1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0–99	(869–022–00107–8)	21.00	July 1, 1994
100–499	(869–022–00108–6)	9.50	July 1, 1994
500–899	(869–022–00109–4)	35.00	July 1, 1994
900–1899	(869–022–00110–8)	17.00	July 1, 1994
1900–1910 (§§ 1901.1 to 1910.999)	(869–022–00111–6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869–022–00112–4)	21.00	July 1, 1994
1911–1925	(869–022–00113–2)	26.00	July 1, 1994
1926	(869–022–00114–1)	33.00	July 1, 1994
1927–End	(869–022–00115–9)	36.00	July 1, 1994
30 Parts:			
1–199	(869–022–00116–7)	27.00	July 1, 1994
200–699	(869–022–00117–5)	19.00	July 1, 1994
700–End	(869–022–00118–3)	27.00	July 1, 1994
31 Parts:			
0–199	(869–022–00119–1)	18.00	July 1, 1994
200–End	(869–022–00120–5)	30.00	July 1, 1994
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–022–00121–3)	31.00	July 1, 1994
191–399	(869–022–00122–1)	36.00	July 1, 1994
400–629	(869–022–00123–0)	26.00	July 1, 1994
630–699	(869–022–00124–8)	14.00	[5] July 1, 1991
700–799	(869–022–00125–6)	21.00	July 1, 1994
800–End	(869–022–00126–4)	22.00	July 1, 1994
33 Parts:			
1–124	(869–022–00127–2)	20.00	July 1, 1994
125–199	(869–022–00128–1)	26.00	July 1, 1994
200–End	(869–022–00129–9)	24.00	July 1, 1994
34 Parts:			
1–299	(869–022–00130–2)	28.00	July 1, 1994
300–399	(869–022–00131–1)	21.00	July 1, 1994
400–End	(869–022–00132–9)	40.00	July 1, 1994
35	(869–022–00133–7)	12.00	July 1, 1994
36 Parts:			
1–199	(869–022–00134–5)	15.00	July 1, 1994
200–End	(869–022–00135–3)	37.00	July 1, 1994
37	(869–022–00136–1)	20.00	July 1, 1994
38 Parts:			
0–17	(869–022–00137–0)	30.00	July 1, 1994
18–End	(869–022–00138–8)	29.00	July 1, 1994
39	(869–022–00139–6)	16.00	July 1, 1994
40 Parts:			
1–51	(869–022–00140–0)	39.00	July 1, 1994
52	(869–022–00141–8)	39.00	July 1, 1994
53–59	(869–022–00142–6)	11.00	July 1, 1994
60	(869-022-00143-4)	36.00	July 1, 1994
61–80	(869–022–00144–2)	41.00	July 1, 1994
81–85	(869–022–00145–1)	23.00	July 1, 1994
86–99	(869–022–00146–9)	41.00	July 1, 1994
100–149	(869–022–00147–7)	39.00	July 1, 1994
150–189	(869–022–00148–5)	24.00	July 1, 1994
190–259	(869–022–00149–3)	18.00	July 1, 1994
260–299	(869–022–00150–7)	36.00	July 1, 1994
300–399	(869–022–00151–5)	18.00	July 1, 1994
400–424	(869–022–00152–3)	27.00	July 1, 1994
425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–022–00154–0)	28.00	July 1, 1994
790–End	(869–022–00155–8)	27.00	July 1, 1994
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–022–00156–6)	9.50	July 1, 1994
101	(869–022–00157–4)	29.00	July 1, 1994
102–200	(869–022–00158–2)	15.00	July 1, 1994
201–End	(869–022–00159–1)	13.00	July 1, 1994
42 Parts:			
1–399	(869–022–00160–4)	24.00	Oct. 1, 1994
400–429	(869–022–00161–2)	26.00	Oct. 1, 1994
430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–022–00164–7)	31.00	Oct. 1, 1994
4000–End	(869–022–00165–5)	14.00	Oct. 1, 1994
44	(869–022–00166–3)	27.00	Oct. 1, 1994
45 Parts:			
1–199	(869–022–00167–1)	22.00	Oct. 1, 1994
200–499	(869–022–00168–0)	15.00	Oct. 1, 1994
500–1199	(869–022–00169–8)	32.00	Oct. 1, 1994
1200–End	(869–022–00170–1)	26.00	Oct. 1, 1994
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–022–00172–8)	16.00	Oct. 1, 1994
70–89	(869–022–00173–6)	8.50	Oct. 1, 1994
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–022–00175–2)	12.00	Oct. 1, 1994
156–165	(869–022–00176–1)	17.00	[7] Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–022–00179–5)	15.00	Oct. 1, 1994
47 Parts:			
0–19	(869–022–00180–9)	25.00	Oct. 1, 1994
20–39	(869–022–00181–7)	20.00	Oct. 1, 1994
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–022–00183–3)	24.00	Oct. 1, 1994
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–022–00188–4)	13.00	Oct. 1, 1994
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
15–28	(869–022–00191–4)	32.00	Oct. 1, 1994
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–022–00193–1)	24.00	Oct. 1, 1994
100–177	(869–022–00194–9)	30.00	Oct. 1, 1994
178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
200–399	(869–022–00196–5)	30.00	Oct. 1, 1994
400–999	(869–022–00197–3)	35.00	Oct. 1, 1994
1000–1199	(869–022–00198–1)	19.00	Oct. 1, 1994
1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
50 Parts:			
1–199	(869–022–00200–7)	25.00	Oct. 1, 1994
200–599	(869–022–00201–5)	22.00	Oct. 1, 1994
600–End	(869–022–00202–3)	27.00	Oct. 1, 1994
CFR Index and Findings Aids	(869–022–00053–5)	38.00	Jan. 1, 1994

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1993, to September 30, 1994. The CFR volume issued October 1, 1993, should be retained.