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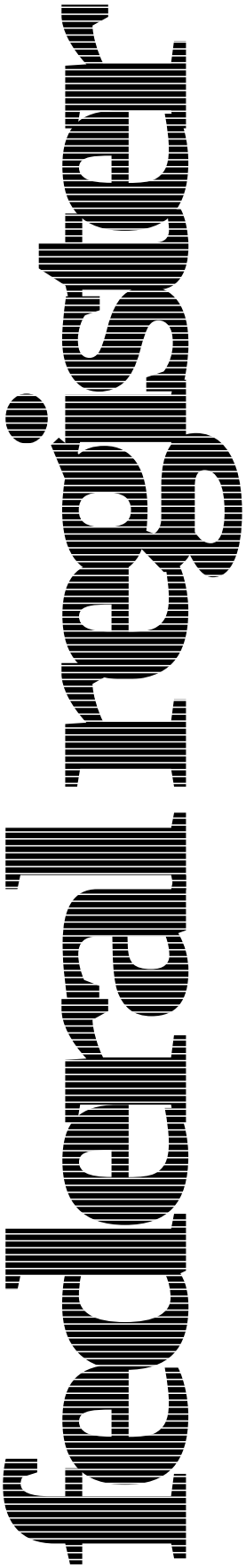


Tuesday
May 30, 1995

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## CFR PARTS AFFECTED IN THIS ISSUE

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

# Rules and Regulations

Federal Register
Vol. 60, No. 103
Tuesday, May 30, 1995



## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## 12 CFR Parts 506, 510

**[No. 95–100]**

**RIN 1550–AA66**

## Release of Unpublished Information

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is issuing its final regulation pertaining to the release of unpublished OTS information. The rule is based upon the OTS's experience and practices developed during the last five years in responding to the large volume of requests by the public for unpublished OTS information.

The final rule describes the procedures that requesters must follow in requesting the release of unpublished information by document or testimony and the criteria on which the OTS will evaluate requests for unpublished information. The records covered include those created or obtained in connection with the OTS's performance of its statutory responsibilities, such as supervision, regulation, examination, and law enforcement duties.

**EFFECTIVE DATE:** July 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439, Regulations and Legislation Division; Donna Miller, Program Manager, (202) 906–7488, Affiliates Programs; Francis Raue, Program Analyst, (202) 906–5750, Thrift Policy; Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The OTS is today issuing a final rule amending its current rule concerning the release of unpublished information.[1] The final rule includes requests for release of records that are exempt from disclosure under the Freedom of Information Act (FOIA), such as examination and related reports, information relating to the business operations and finances of individual savings associations, savings and loan holding companies, other affiliates, and their customers, and information compiled in connection with the OTS's enforcement investigations. It also includes requests for testimony. The testimony covered in the final rule includes requests for current and former OTS employees, officers, and agents (and for former employees, officers and agents of the OTS's predecessor, the Federal Home Loan Bank Board) to testify in judicial and administrative proceedings, including depositions and informal interviews, about information obtained in their official OTS capacities.

The final rule in no way affects the rights and procedures governing access to records that are required under the FOIA. Indeed, the final rule does not apply to requests for records under the FOIA; FOIA requests remain governed by Part 505 of the OTS's regulations and the Treasury Department's FOIA regulations. However, the final rule may permit the OTS to make records available that are exempt from disclosure under the FOIA.

The final rule provides that in considering requests for disclosure of unpublished information, the OTS must weigh carefully the need demonstrated by a member of the public for access to the OTS's records and testimony against the public interest in maintaining the confidentiality of the unpublished information. Among the factors the OTS will consider in weighing the public interest in confidentiality is the impact on the OTS's supervisory, examination, and enforcement responsibilities of releasing such information. The OTS will balance these and other appropriate considerations with a requester's interest and expressed need in obtaining such information.

While the vast majority of requests for unpublished records and testimony arise in the course of litigation to which the OTS is not a party, this final rule also provides for the evaluation of requests that arise in a non-litigation context. A non-litigation request must demonstrate as great a need for release of the information as that shown by a request made in the course of litigation.

In addition, the final rule, for the first time, authorizes savings associations to release their examination reports and related supervisory correspondence to their holding companies, and similarly authorizes holding companies to release their examination reports and related supervisory correspondence to their subsidiary savings associations. Also, reports and other information released under this rule remain the property of the OTS, regardless of where such reports or information are physically located.

The final rule also provides for the imposition of fees for searches for records, copying, certifications and witness fees and allowances.

#### *A. Revisions to Existing Section 510.5*

The final rule completely revises much of existing 12 CFR 510.5. In particular, the final rule adds detailed procedures for the public to follow in requesting release of unpublished OTS information and describes criteria on which the OTS will evaluate such requests. Also, as noted above, the final rule for the first time authorizes savings associations to release their examination reports and related supervisory correspondence to their parent holding companies, and similarly authorizes holding companies to release their examination reports and related supervisory correspondence to their subsidiary savings associations. The final rule also provides for reimbursement to the OTS for producing records and witnesses. A more detailed description, section by section, of the revisions made to current § 510.5 is contained below in ''B. Description of the Proposal''.

#### *B. Description of the Proposal*

On December 9, 1993, the OTS published in the **Federal Register** a

[1] The OTS's authority to govern the custody and use of its records and the testimony of its personnel derives from 12 U.S.C. 1462a, 1463(a) 1464 and 5 U.S.C. 301. In particular, section 1462a(b)(2) authorizes the Director of the OTS to prescribe such regulations as he may determine to be necessary for carrying out his responsibilities. Also, section 301 authorizes an agency head to prescribe regulations governing the conduct of its employees and the custody, use and preservation of its records.

notice of proposed rulemaking describing amendments to its current § 510.5. 58 FR 64695 (December 9, 1993).[2] The public comment period closed on February 7, 1994. The proposal is described section by section below:

*Section 510.5(a):* Paragraph (a) identifies the types of requests covered under this rule. This paragraph provides that the rule applies to requests from the public for unpublished OTS information; the term ''unpublished information'' includes records and testimony. The covered records include those created or obtained in connection with the OTS's performance of its responsibilities such as its supervisory, regulatory, examination, and enforcement-related duties. The covered testimony includes that of present and former employees, officers, and agents for information obtained in their official OTS capacities. The paragraph states that this rule does not apply to records required to be released under the FOIA, nor does it apply to requests for information by other government agencies or requests for information that arise in proceedings in which the OTS is a party.

*Section 510.5(b):* Paragraph (b) sets out the purpose of this regulation. The purpose of this rule is to provide an orderly mechanism for expeditiously processing requests for OTS's unpublished information while preserving the OTS's need to maintain confidentiality of certain information.

*Section 510.5(c):* Paragraph (c) describes the procedures that must be followed when making a request for unpublished OTS information. Paragraph (1) describes general procedures that apply to all requests by members of the public for unpublished information (i.e., records and testimony). It sets forth the types of information that must be contained in such requests, including a showing by the requester that the information sought is *highly relevant* to the purpose for which it is sought. In addition, the requester must demonstrate that the information requested is not available from another source. The requester must also demonstrate that the need for such information clearly outweighs the need to maintain the confidentiality of OTS unpublished information and the burden on the OTS in producing the information, such as the disruption to the OTS's supervisory and other responsibilities that is occasioned by reviewing a large volume of records and loss to the OTS of the services of employees while they testify at depositions or hearings. This paragraph also requires a requester who seeks a response in less than 30 days to include an explanation of why the request was not submitted earlier and why the expedited handling of the request is necessary.

Paragraphs (2) and (3) set forth additional requirements for certain types of requests. Paragraph (2) pertains to requests for records. It requires that requesters of unpublished OTS records specifically list the types and categories of records sought and the relevant time period. Paragraph (3) describes special requirements for requests for testimony from OTS employees. This paragraph states that requests for testimony by OTS employees or former employees must specifically describe the substance of the testimony sought and show a compelling need for the testimony. Such requests shall also include a demonstration that the information sought is not available from any other source. This paragraph also prohibits OTS employees from testifying as expert witnesses for private parties, requests that litigants anticipate their need for OTS testimony in time for such testimony to be taken in deposition form, and states that the OTS shall specify the scope of any authorized testimony.

Paragraph (4) specifies that unpublished OTS information made available to savings associations, state and Federal agencies and requesters shall remain the property of the OTS and shall not be disclosed to any other party without OTS authorization. In addition, the paragraph authorizes a savings association to provide a copy of its examination report and related supervisory correspondence to parent holding companies. Similarly, a savings and loan holding company is authorized to provide a copy of its examination report and related supervisory correspondence to its subsidiary savings association(s) without further authorization from the OTS.

Paragraph (5) provides that requests for unpublished OTS information shall be sent to the OTS at 1700 G Street, NW., Washington, D.C. 20552, to the attention of the Corporate Secretary.

*Section 510.5(d):* Paragraph (d) describes the process by which the OTS will consider requests for unpublished information, both records and testimony, and the factors the OTS may consider in denying such requests.

*Section 510.5(e):* Paragraph (e) sets forth restrictions on the dissemination of unpublished OTS information. Paragraph (1) provides that except as authorized by this regulation or as otherwise authorized by the Director or his delegate, no current or former OTS employee may disclose any unpublished OTS information to anyone other than an employee or agent of the OTS properly entitled to such information for the performance of their official duties.

Paragraph (2) requires any person with unpublished OTS information who is served with a subpoena, order, or other process requiring their attendance as a witness or for production of records, to advise the issuer of such notice of the substance of this regulation. In addition, this paragraph prohibits any person with unpublished OTS information from disclosure of such information in response to a subpoena without prior OTS authorization.

Paragraph (3) provides that if a person is required to appear in response to a subpoena or other legal process and is asked to disclose unpublished OTS information, that person shall decline to produce such information or give any testimony concerning such information. Upon receiving such a request or subpoena to testify, the individual is required to contact promptly the OTS Litigation Division.

Paragraph (4) specifies that the possession of unpublished OTS information by savings associations, their holding companies, and state and Federal agencies shall not waive any privilege the OTS might have to such information.

*Section 510.5(f):* Paragraph (f) imposes requirements to protect the confidentiality of unpublished OTS information that is made available to requesters. Paragraph (1) provides that the release of records will normally be conditioned upon entry of an acceptable protective order by the court or administrative tribunal presiding in a particular case or, in non-litigated matters, upon execution of an acceptable confidentiality agreement. Paragraph (2) states that the OTS may condition its authorization of deposition testimony on an agreement of the parties that the transcript of the testimony shall remain confidential. This paragraph also requires the party who requested the testimony to furnish the OTS with a copy of the transcript of the testimony at its expense.

*Section 510.5(g):* Paragraph (g) sets forth procedures designed to limit the burden on the OTS in connection with releasing records. Paragraph (1) states that requesters who require authenticated records should request certified copies at least 30 days prior to the date the records are needed.

[2] The reader is also directed to the preamble discussion in the proposal for a more detailed discussion of the background of this regulation.

Paragraph (2) specifies the responsibility of litigants to share and safeguard OTS records. This paragraph provides that the party to whom records are released has the responsibility of notifying the other parties, providing them with copies of the records, retrieving any records from the court's file when they are no longer required, and returning such records to the OTS.

*Section 510.5(h):* Paragraph (h) sets forth the fees for records searches, records copying and records certification. Specifically, it provides that the fees charged to the requester of OTS records shall be the fees set forth in the Treasury Department regulations, 31 CFR 1.7. Paragraph (2) requires that witness fees and allowances will be paid by the requester of testimony of current OTS employees in accordance with 28 U.S.C. 1821.

## II. Summary of Comments

### *A. General Summary*

The OTS received a total of 20 letters of comment from 4 types of sources. Those who submitted comments included 14 savings associations; 5 trade associations; 1 co-operative savings bank; and 1 holding company (one thrift submitted its comment letter on behalf of itself and its parent holding company).

Generally, several commenters expressed concern that the proposed rule would have a ''chilling effect'' on the examination process. They asserted that the possibility that the OTS might subsequently release information provided in an examination may impede the free flow of information from a savings association to the OTS examiners. Some commenters expressed concern that the proposal was an impermissible expansion of the FOIA and urged that deviations from the FOIA requirements be considered cautiously. Also, five commenters supported the portion of the proposal permitting holding companies to release their examination reports to their thrifts and thrifts to release examination reports to their holding companies.

### *B. Specific Issues Discussion*

#### 1. Possible ''Chilling Effect'' on Examination Process

Several commenters speculated that this rule will be detrimental to the industry in that it will inhibit cooperation and candid communication between savings associations and the OTS examiners. Certain of these commenters stated that the examination process and the supervisory process would be adversely affected by this rule because institutions may attempt to protect confidential information which could reasonably be expected to harm the institution if disclosed.

The commenters did not point to any particular situation where such problems have arisen. In fact, OTS has been following these practices for several years, and its experience indicates that the integrity of the examination process will not in any way be compromised by this rule. In hundreds of instances OTS has produced non-public information about institutions in response to demands made by litigants in law suits in which OTS is not a party (''third-party litigation''). In responding to such requests, OTS has developed a practice over a period of five years, which is incorporated into this regulation, that balances confidentiality concerns with the disclosure obligations in the Federal Rules of Civil Procedure. (Under the Federal Rules of Civil Procedure, a litigant is generally entitled to discover non-privileged relevant information.) Specifically, in responding to a request for release of non-public information, OTS considers the following three factors: (1) The relevance of the information, (2) the availability of the information from other sources and (3) whether the need for the information outweighs the need to keep it confidential and the burden on OTS. These criteria are set forth in the regulation issued today. Sec. 510.5(c)(1). Further, in keeping with existing practice, the regulation provides that if OTS grants a request for disclosure of non-public information, it will generally condition the release of the information on the entry of a confidentiality order or agreement that places limits on the extent to which the recipient may disclose the information. Sec. 510.5(f).

By selectively releasing information in third-party litigation only when these criteria are met, and by requiring that a confidentiality order or agreement be in place before non-public information is released, OTS has minimized any potential adverse consequence occasioned by the release of the information. As noted, following these procedures, OTS has disclosed non-public information in hundreds of cases in which it has received production demands under the Federal Rules of Civil Procedure, and it is not aware that this practice has had any adverse effect on the examination process.

#### 2. Freedom of Information Act Considerations

Six commenters expressed concern that the FOIA specifically exempts from disclosure certain records, such as OTS's examination reports, and that the release of such records would be a ''violation'' of the FOIA. First, the FOIA does not prohibit the release of information; rather, it requires the disclosure of certain types of records and exempts from mandatory release other records. The FOIA gives the agency discretion to release information that it is not otherwise required to release under FOIA. Among the categories of records that are exempt from mandatory release are records related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.[3] Thus, while the FOIA exempts these records from the mandatory disclosure requirements, it in no manner prevents the OTS from disclosing this information under the OTS's authority to govern the custody and the use of its records and the testimony of its personnel.[4] The OTS will continue to exercise its authority to release such information in a prudent manner by applying the procedures set forth in the final rule and the relevant federal case law.

#### 3. An Interagency Process Should be Established

The recommendation was made by some commenters that the OTS should work with the other banking agencies to establish interagency procedures to provide for consistent application of criteria governing release of unpublished information concerning financial institutions. One commenter stated that this is a matter for resolution under the auspices of the Federal Financial Institutions Examination Council (FFIEC), and recommended that the OTS refer the issues arising out of the proposal to the FFIEC.

The nature of requests, the volume of requests and the needs of the agency may vary from one federal agency to another. While the OTS agrees with the merits of developing a uniform set of procedures for responding to requests for unpublished information, the public interest would not be served by delaying the issuance of this rule while the prospect of developing uniform procedures on an interagency basis is explored. Because the existing rule does not describe many of the practices that OTS has developed over the last several years, it is preferable to amend the rule now so that the public is informed of the disclosure process OTS currently uses.

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[3] 5 U.S.C. 552(b)(8).

[4] 12 U.S.C. 1462a; 5 U.S.C. 301.

4. Violation of the Right to Privacy

Three commenters asserted that the release of confidential information without the knowledge and consent of the savings association violates a general right to privacy of the thrift, its customers, and its personnel. The commenters identified no statutory basis for this assertion. In releasing unpublished OTS information, the OTS has observed and will continue to observe the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, and the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq*.

5. Source of Information Should be Permitted to Comment

Three commenters suggested that the source or subject of the confidential information should be permitted to express its views regarding the release of unpublished information. The OTS has on occasion contacted the source of the information for its views on release of the information. However, in the vast majority of cases, the OTS has been able to evaluate the necessity to maintain the confidentiality of OTS information without consulting the subject or source of the OTS information. Therefore, a requirement that the OTS obtain the subject's or source's views in all instances would result in unnecessary delays in processing requests. For this reason, the OTS declines to include a provision requiring that the source's views be sought, but the OTS will retain, on a case-by-case basis, the practice of contacting the source of information for input when the circumstances and timing warrant.

6. Information Shared With Holding Company

Five commenters supported the new provision authorizing a savings association to provide a copy of its examination report and related supervisory correspondence to its parent holding company. The commenters also supported the provision whereby the holding company would similarly be authorized to provide a copy of its examination report and related supervisory correspondence to its subsidiary thrift. This information would enhance the ability of a holding company to assess its subsidiary thrift's operations and compliance with regulatory standards, and would permit the holding company to provide managerial or financial resources when needed. Similarly, a subsidiary thrift could use this information to address issues it may have with the holding company and to avoid potential conflicts of interest.

7. Increased Litigation and Increased Costs

Three commenters expressed concern that the final rule will lead to an increase in shareholder and other lawsuits against savings associations. Also, two commenters expressed concern that this rule would greatly increase the amount of OTS employee time and taxpayer money that would be expended in evaluating requests for information, as well as increase costs generally. The OTS does not agree with these concerns. The final rule simply codifies the OTS's existing practices in evaluating requests from the public for unpublished OTS information. The OTS's experience over the past five years has not shown that these practices resulted in increased litigation against savings associations or increased costs to the OTS. In fact, the final rule should help reduce costs by decreasing the amount of time that OTS personnel devote to answering questions from the public about the OTS's procedures for releasing non-public information. Unlike the current rule, the final rule specifies in detail the procedures that must be followed and the information that must be provided when the public requests unpublished OTS information.

## III. Description of the Final Rule

The final rule does not differ materially from the proposal. Certain non-substantive changes have been made to section 510.5(a)(2) for clarification purposes. Section 510.5(a)(3) was changed to clarify that this rule does not apply to other government agencies except where specifically provided. Also, section 510.5(c)(4)(v) was changed to clarify that requesters who obtain unpublished OTS information may not disclose such information without the OTS's authorization.

Certain minor changes have been made to section 510.5(c)(2)(ii) in response to a comment that was submitted. As proposed, that subsection provided that if a party to a lawsuit has a claim of privilege regarding the information in OTS records and the records are in the possession of that party, the OTS may respond to the request by authorizing the party to release the records pursuant to an appropriate confidentiality order rather than by releasing the records directly to the requesting party, so that the party possessing the records may argue the issue of privilege in the appropriate court. In the final rule, the term ''another party to the lawsuit'' has been changed to ''person'' in order to clarify that a person (*e.g.*, an individual, corporation, partnership) may assert a privilege for non-public OTS records in its possession or control if it receives a subpoena for such information in litigation in which it is not a party. The final rule also clarifies that the privilege may be asserted by the person who has either possession or control of the records, rather than just possession of the records.

Section 510.5(c)(5) was also changed to specify that requests submitted under this regulation should be sent to the attention of the Corporate Secretary.

Section 510.5(d)(4), which describes the grounds for denying requests, was modified to include two criteria that are identified in section 510.5(c), the section that explains the issues that must be addressed in a request for unpublished OTS information. The additional criteria for denying a request are (1) the need for the information does not clearly outweigh the need to maintain the confidentiality of the information, and (2) the requester has not shown a compelling need for the testimony. While these criteria are implicit in the grounds for denial that appeared in the proposed rule and that have been retained in the final rule (i.e., that OTS may deny requests that are overly burdensome or contrary to the public interest), OTS is explicitly including these criteria in the interests of completeness.

Readers are referred to the preamble [5] in the proposal for additional discussion of provisions that have not been revised in the final rule.

## IV. Paperwork Reduction Act

The reporting requirements contained in this final rule have been submitted for review and approved by the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1550–0081. Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, D.C. 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

The reporting requirements in this final rule are found in 12 CFR 510.5(c)–(g). The information is needed by the OTS to provide a more efficient mechanism for expeditiously processing requests for unpublished information.

## V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601), it is certified that this

[5] 58 FR 64695 (December 9, 1993).

regulation will not have a significant economic impact on a substantial number of small savings associations, small service corporations, or other small entities. This regulation simply sets forth the procedures utilized by the OTS in its handling of requests for unpublished OTS information and imposes fees in connection with such requests. Accordingly, a regulatory flexibility analysis is not required.

**VI. Executive Order 12866**

The OTS has determined that this regulation does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

**List of Subjects**

*12 CFR Part 506*

Reporting and recordkeeping requirements.

*12 CFR Part 510*

Administrative practice and procedure.

Accordingly, the Office of Thrift Supervision hereby amends parts 506 and 510, subchapter A, chapter V, title 12 of the Code of Federal Regulations as set forth below.

**SUBCHAPTER A—ORGANIZATION AND PROCEDURES**

## PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

2. Section 506.1 is amended by adding in numerical order one new entry to the table in paragraph (b) to read as follows:

**§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

* * * * *

(b) *Display.*

| 12 CFR part or section where identified and described | Current OMB control No. |
|---|---|
| * * * * * | |
| 510.5(c) through (g) ..... | 1550–0081 |
| * * * * * | |

## PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

3. The authority citation for part 510 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 12 U.S.C. 1462a, 1463, 1464.

4. Section 510.5 is revised to read as follows:

**§ 510.5 Release of unpublished OTS information.**

(a) *Scope.* (1) This section applies to requests by the public for unpublished OTS information, such as requests for records or testimony from parties to lawsuits in which the OTS is not a party.

(2) Unpublished OTS information includes records created or obtained in connection with the OTS's performance of its responsibilities, such as records concerning supervision, regulation, and examination of savings associations, their holding companies, and affiliates, and records compiled in connection with the OTS's enforcement responsibilities. Unpublished OTS information also includes information that current and former employees, officers, and agents obtained in their official capacities. Examples of unpublished information include:

(i) Information in the memory of a current or former employee, officer, or agent of the OTS (or the Federal Home Loan Bank Board, the predecessor agency of the OTS), by testimony or informal interview, that was acquired in the course of performing official duties or because of the employee's, officer's or agent's official status;

(ii) Reports of examination, supervisory correspondence, internal agency memoranda and investigatory files compiled in connection with an investigation, whether such records are in the possession of the OTS or some other individual or entity; and

(iii) Unpublished OTS records obtained by or in the possession of third parties, including other government agencies.

(3) This section does not apply to:

(i) Requests for records or testimony in proceedings in which the OTS is a party;

(ii) Requests for information by other government agencies, except when specifically provided; and

(iii) Requests for records that are required to be disclosed under the Freedom of Information Act, *see* 5 U.S.C. 552, and 31 CFR 1.1–1.6.

(b) *Purpose.* The purposes of this section are:

(1) To afford an orderly mechanism for the OTS to expeditiously process requests for unpublished OTS information and, where appropriate, for the OTS to assert evidentiary privileges in litigation;

(2) To balance the need for confidentiality of unpublished OTS information with the private party's interest in obtaining disclosure of that information;

(3) To ensure that the time of OTS employees is utilized in the most efficient manner consistent with the OTS's statutory mission;

(4) To prevent undue burdens on the OTS;

(5) To limit the expenditure of the OTS's funds for private purposes; and

(6) To maintain the impartiality of the OTS among private litigants.

(c) *Procedure.*—(1) *Requests for records and testimony in general.* A request for unpublished OTS information must be in writing, furnish the caption of the lawsuit if the request arises in the course of litigation, and support the requester's claim that the information sought is highly relevant to the purpose for which it is sought. In demonstrating that the information is highly relevant, the requester must explain in detail how the requested OTS information relates to the issues in the case or the matter.

(i) For requests arising in lawsuits, the submission also must include:

(A) A copy of the complaint or equivalent document in the case and any other pleadings necessary to show relevance;

(B) A description of any prior decisions or pending motions in the case that may bear on the asserted relevance of the information being sought from the OTS; and

(C) The names, addresses and phone numbers of counsel to all other parties in the case.

(ii) In all instances, in addition to demonstrating that the information sought is highly relevant to the purpose for which it is sought, the requester must:

(A) Demonstrate that the information sought is not available from any other source; and

(B) Demonstrate that the need for the information clearly outweighs the need to maintain the confidentiality of the OTS information and the burden on the OTS to produce the information.

(iii) If a request seeks a response in fewer than 30 days, it must include an explanation of why the requester was unable to submit the request earlier and why expediting the request is required.

(2) *Additional provisions relating to requests for records.* In addition to the requirements of paragraph (c)(1) of this section, the provisions in paragraphs (c)(2)(i) and (c)(2)(ii) of this section apply to requests for disclosure of records.

(i) A request for records must list the categories of records sought and describe the specific information sought, including the relevant time period.

(ii) When the OTS believes that another person has a claim of privilege regarding the information in the records

and the records are in the possession or control of that person, such as reports prepared by a savings association's attorneys that are shared with the OTS, the OTS may respond to the request by authorizing that person to release the records pursuant to an appropriate confidentiality order rather than by the OTS releasing the records directly to the requesting party. This will enable the person possessing or controlling the records to argue any issues of privilege to the appropriate court.

(3) *Additional provisions relating to requests for testimony from OTS employees.* In addition to the requirements of paragraph (c)(1) of this section, the provisions in paragraphs (c)(3)(i) through (c)(3)(iv) of this section apply to requests that current or former OTS employees be authorized to give testimony.

(i) The request must specifically describe the substance of the testimony sought and show a compelling need for the testimony. A showing of compelling need should include a demonstration that the requested information is not available from any other source, such as the books and records of other persons or entities, OTS records that have been or might be released, or the testimony of other non-OTS persons, including retained experts.

(ii) OTS employees will not be authorized to provide expert or opinion testimony for private parties.

(iii) The OTS expects litigants to anticipate their need for OTS testimony in sufficient time to request and obtain that testimony in deposition form. A request for testimony at a trial or hearing may not be granted unless the requester shows that properly developed deposition testimony could not be used or would not be adequate at the trial or hearing.

(iv) The OTS shall specify the scope of any authorized testimony and may take steps to ensure that the scope of testimony taken adheres to the scope authorized. Parties to the case who did not join in the request and who wish to question the witness beyond the authorized scope should request expanded authorization pursuant to this regulation. The OTS will attempt to render decisions on such requests in an expedited manner.

(4) *Information available to savings associations, holding companies, state and Federal agencies and requesters.* (i) The regular report of examination of a savings association, savings and loan holding company, or other affiliate of a savings association is made available by the appropriate Regional Office to the entity examined.

(ii) A subsidiary savings association of a savings and loan holding company may reproduce and furnish a copy of its report of examination and related supervisory correspondence of the savings association to its parent holding company(ies) without prior approval of the OTS. A savings and loan holding company may reproduce and furnish a copy of its report of examination and related supervisory correspondence to another affiliated savings and loan holding company that controls the same savings association or its subsidiary savings association(s) without prior approval of the OTS. This paragraph does not require such disclosure by a parent savings and loan holding company or subsidiary savings association.

(iii) Reports of examination and other information relating to state-chartered savings associations and affiliates are made available, upon request, by the OTS to the state governmental authority having general supervision of such state-chartered savings associations.

(iv) Reports of examination and other information may be made available by the OTS to other agencies of the United States, a state agency, or to the Federal Home Loan Banks, for use where necessary in the performance of their official duties.

(v) All reports or other information made available to savings associations, holding companies, affiliates, other governmental agencies or requesters shall remain the property of the OTS and, except as permitted by this section or otherwise by the Director or his delegate, no person, company, agency, or authority to whom the information is made available, or any officer, director, employee or agent thereof, shall disclose any such information except published statistical material that would not disclose the identity of any individual or corporation.

(5) *Where to submit requests.* In all matters covered by this section, notification of the issuance of subpoenas or compulsory process and requests for records or testimony covered by this section must be sent to the OTS at 1700 G Street NW., Washington, DC 20552, to the attention of the Corporate Secretary, and should be labelled ''Request for Release of Unpublished Information Under Section 510.5.'' Requesters may furnish copies of the request or subpoenas simultaneously to the appropriate OTS Regional Office, but the furnishing of such copies does not constitute service on the OTS.

(d) *Consideration of requests*—(1) *In general.* The OTS will generally process requests in the order in which they are received. The OTS will endeavor to respond to requests within 30 days, but this may vary depending on the scope and precision of the request. The OTS will weigh requests for processing in less than 30 days against the burden to the OTS of expedited processing and the unfairness to other parties whose pending requests may be delayed.

(2) *Consultation with requester.* The OTS may consult with the requester to:

(i) Refine and limit the scope of the request so as to reduce the burden and expense on the OTS; or

(ii) Obtain additional information necessary for the OTS to make an informed determination on the request. To the extent necessary to reach an informed determination on the request, the OTS may inquire into the circumstances of the underlying matter and rely on sources of information beyond the requester, including other interested parties.

(3) *Final determinations.* Final determinations on requests will be made by the Director or his delegate. All such determinations are the sole discretion of the Director or his delegate. Requesters will be notified in writing of the disposition of the request.

(4) *Denial of requests.* (i) The OTS may deny requests for records or testimony that seek information that the OTS deems to be:

(A) Not highly relevant;

(B) Privileged;

(C) Available from other sources; or

(D) Information that should not be disclosed for reasons that warrant restriction of discovery under the Federal Rules of Civil Procedure (28 U.S.C. appendix).

(ii) The OTS may also deny a records or testimony request when it considers production of the information to be overly burdensome or contrary to the public interest, or where OTS determines that the need for the information does not clearly outweigh the need to maintain the confidentiality of the information, or where the requester seeks testimony and has not shown a compelling need for the testimony.

(5) *Confidentiality Orders and Agreements.* As is set forth in paragraph (f) of this section, the OTS may condition release of information on the entry by the relevant tribunal of an order satisfactory to the OTS or, in a non-litigated matter, the execution of a confidentiality agreement that limits access of third parties to the unpublished OTS information. It shall be the duty of the requesting party to obtain such an order or to execute a confidentiality agreement.

(e) *Parties with access to OTS information; restriction on dissemination*—(1) *Current and former employees.* Except as authorized by this section or as otherwise authorized by the Director or his delegate, no current or former employee, officer or agent of the OTS or a predecessor agency shall disclose or permit the disclosure of any unpublished information of the OTS to anyone (other than an employee, officer or agent of the OTS properly entitled to such information for the performance of their official duties), whether by giving out or furnishing such information or a copy thereof or by allowing any person to inspect, examine, or copy such information or copy thereof, or otherwise.

(2) *Duty of person served.* If any person, whether or not a current or former employee, officer or agent of the OTS, has information of the OTS that may not be disclosed under the regulations of the OTS or other applicable law, and in connection therewith is served with a subpoena, order, or other process requiring personal attendance as a witness or production of records or information in any proceeding, that person shall promptly advise the OTS of such service or request for information. Upon such notice the OTS will take appropriate action to advise the court or tribunal that issued the process and the attorney for the party at whose instance the process was issued, if known, of the substance of this section. Such notice to the OTS shall be made by contacting the Litigation Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552. As provided in paragraph (e)(3) of this section, a person so served with process may not disclose OTS information without OTS authorization. To obtain OTS authorization, a request must be sent to the OTS in Washington, DC, in accordance with paragraph (c) of this section.

(3) *Appearance by person served.* Except as the OTS has authorized disclosure of the relevant information, or except as authorized by law, any person who has information of the OTS that may not be disclosed under this section and is required to respond to a subpoena or other legal process shall attend at the time and place therein mentioned and respectfully decline to produce such records or give any testimony with respect thereto, basing such refusal on this part. If, notwithstanding, the court or other body orders the disclosure of such records or the giving of such testimony, the person having such information of the OTS shall continue respectfully to decline to produce such information and shall promptly advise the Litigation Division of the Chief Counsel's Office, Office of Thrift Supervision. Upon such notice the OTS will take appropriate action to advise the court or tribunal which issued the order, of the substance of this section.

(4) *Non-waiver of privilege.* The possession by any entity or individual described in paragraph (c)(4) of this section of OTS records covered by this section shall not waive any privilege of the OTS or the OTS's right to supervise the further dissemination of these records.

(f) *Orders and agreements protecting the confidentiality of unpublished OTS information*—(1) *Records.* Unless otherwise permitted by the OTS, release of records authorized pursuant to this section will be conditioned by the OTS upon entry of an acceptable protective order by the court or administrative tribunal presiding in the particular case, or, in non-litigated matters, upon execution of an acceptable confidentiality agreement. In cases where protective orders have already been entered, the OTS reserves the right to condition approval for release of information upon the inclusion of additional or amended provisions.

(2) *Testimony.* The OTS may condition its authorization of deposition testimony on an agreement of the parties that the transcript of the testimony will be kept under seal, or will be made available only to the parties, the court and the jury, except to the extent that the OTS may allow use of the transcript in related litigation. The party who requested the testimony shall, at its expense, furnish to the OTS a copy of the transcript of testimony of the OTS employee or former employee.

(g) *Limitation of burden on the OTS in connection with released records*—(1) *Authentication for use as evidence.* The OTS will authenticate released records to facilitate their use as evidence. Requesters who require authenticated records should request certified copies at least 30 days prior to the date they will be needed. The request should be sent to the OTS Public Disclosure Branch and shall identify the records, giving the office or record depository where they are located (if known) and include copies of the records and payment of the certification fee.

(2) *Responsibility of litigants to share released records.* The party who has sought and obtained OTS records has the responsibility of:

(i) Notifying other parties to the case of the release and, after entry of a protective order, providing copies of the records to the other parties who are subject to the protective order; and

(ii) Retrieving any records from the court's file as soon as the records are no longer required by the court and returning them to the OTS. Where a party may be involved in related litigation, the OTS may, upon a request made to it pursuant to this section, authorize such party to transfer the records for use in that related case.

(h) *Fees*—(1) *Fees for records searches, copying and certifications.* Requesters shall be charged fees in accordance with Treasury Department regulations, 31 CFR 1.7. With certain exceptions, the regulations in 31 CFR 1.7 provide for recovery of the full direct costs of searching, reviewing, certifying and duplicating the records sought. An estimate of the statement of charges will be sent to requesters, and fees shall be remitted by check payable to the OTS prior to release of the requested records. Where it deems appropriate, the OTS may contract with commercial copying concerns to copy the records, with the cost billed to the requester.

(2) *Witness fees and allowances.* (i) Litigants whose requests for testimony of current OTS employees are approved shall, upon completion of the testimonial appearance, promptly tender a check payable to the OTS for witness fees and allowances in accordance with 28 U.S.C. 1821.

(ii) All litigants whose requests for testimony of former OTS employees are approved, shall also promptly tender witness fees and allowances to the witness in accordance with 28 U.S.C. 1821.

Dated: May 22, 1995.

By the Office of Thrift Supervision.

**Jonathan L. Fiechter,**

*Acting Director.*

[FR Doc. 95–12967 Filed 5–26–95; 8:45 am]

**BILLING CODE 6720–01–P**

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**12 CFR Part 509**

**[No. 95–102]**

**RIN 1550–AA80**

## Rules of Practice and Procedure in Adjudicatory Proceedings

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is amending its Rules

of Practice and Procedure in Adjudicatory Proceedings. The final rule is intended to clarify provisions relating to *ex parte* communications to conform to the requirements of the Administrative Procedure Act (APA). In particular, the amendment clarifies that the *ex parte* provisions do not apply to intra-agency communications, which are governed by a separate provision of the APA.

**EFFECTIVE DATE:** July 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Karen Osterloh, Counsel, Banking and Finance, Regulations and Legislation Division, Chief Counsel's Office (202/906–6639), Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In August, 1991, the Office of Thrift Supervision (OTS), the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board of Governors), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) adopted Uniform Rules of Practice and Procedure for agency adjudicatory proceedings.[1] The OTS codified these uniform rules in its Rules of Practice and Procedure in Adjudicatory Proceedings at 12 CFR Part 509, Subpart A.

By notice published December 5, 1994 (59 FR 62354), the OTS proposed to amend one aspect of its rules on *ex parte* communications to clarify that the rules parallel the requirements of the Administrative Procedure Act (APA). The other banking agencies have issued identical proposals.[2] The Board of Governors has published a final rule on this matter.[3]

Currently, section 509.9 prohibits ''a party, his or her counsel, or another interested person'' from making an *ex parte* communication to the Director or other decisional official concerning the merits of an adjudicatory proceeding. When the uniform rules were proposed and adopted in 1991, the joint notice of proposed rulemaking explained that the proposed rule regarding *ex parte* communications ''adopts the rules and procedures set forth in the APA regarding *ex parte* communications.''[4] There was no intention to impose a rule more restrictive than that imposed by the APA.

The APA contains two provisions relating to communications with agency decision-makers. The APA's *ex parte* communication provision, 5 U.S.C. 557(d), restricts communications between ''interested person[s] outside the agency'' and the agency head, the administrative law judge (ALJ), or the agency decisional employees. *Intra-agency* communications are governed by the APA's separation-of-functions provision, 5 U.S.C. 554(d). That section prohibits investigative or prosecutorial personnel at an agency from ''participat[ing] or advis[ing] in the decision, recommended decision, or agency review'' of an adjudicatory matter pursuant to section 557 of the APA except as witness or counsel. The same separation-of-functions provision provides that the ALJ in an adjudicatory matter may not consult any party on a fact in issue unless the other parties have an opportunity to participate.[5] It does not prohibit agency investigatory or prosecutorial staff from seeking the amendment of a notice or the settlement or termination of a proceeding.

The rule as proposed and adopted in 1991, however, neglected to mention the separation-of-functions concept explicitly, and appeared to apply the *ex parte* communication prohibition to all communications concerning the merits of an adjudicatory proceeding between the Director, ALJ or decisional personnel on the one hand, and any ''party, his or her counsel, or another person interested in the proceeding'' on the other. The OTS and the other banking agencies have never interpreted this provision as limiting agency enforcement staff's ability to seek approval of amendments to or terminations of existing enforcement actions. As drafted, however, the provision could be misinterpreted to expand the *ex parte* communication prohibition beyond the scope of the APA. The OTS and the other banking agencies did not intend this result.

The amendment clarifies that the regulation is intended to conform to the provisions of the APA by limiting the prohibition on *ex parte* communications to communications to or from ''interested persons outside the agency,'' 5 U.S.C. 557(d), and by incorporating explicitly the APA's separation-of-functions provision, 5 U.S.C. 554(d). This approach is also consistent with the most recent Model Adjudication Rules prepared by the Administrative Conference of the United States.

The OTS received two comments on the proposed rule. One commenter argued that the separation-of-functions provision of the APA prohibits agency investigatory or prosecutorial staff from seeking the amendment of a notice or termination of a proceeding, without notice and opportunity for other parties to be heard. The commenter further suggests that the separation-of-functions provision prohibits the Director from acting on such a request. The case law, however, does not support the commenter's assertions. Prosecuting staff may advise agency heads *ex parte* with respect to initiating a new action against a party in a pending proceeding, adding new parties to an ongoing case, enlarging or clarifying issues in a pending case, and reopening a closed proceeding.[6]

Another commenter suggested that the OTS explain the so-called ''Chinese wall'' between staff members who prosecute an administrative proceeding and staff members who advise the Director on disposition of that matter. The amended rule specifically sets out the APA separation-of-functions provision that prohibits agency prosecutorial personnel in one case from participating in the Director's decision on that or a factually related case. This provision clearly prevents prosecutorial staff from communicating about the merits of a case with those staff members who advise the Director on the final decision in the case. It is unnecessary to set out internal procedures implementing this statutory prohibition in a formal rulemaking. To do so may limit the OTS's flexibility with regard to its internal operations.

## II. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

The final rule makes a minor amendment to conform an existing rule of procedure to current intra-agency practices. Because the change affects intra-agency procedures only, it should not result in additional burden for regulated institutions. The purpose of the revised regulation is to conform the provisions of the regulation to those imposed by statute.

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[1] OTS, 56 FR 38302, Aug. 12, 1991; OCC, 56 FR 38024, Aug. 9, 1991; Board of Governors, 56 FR 38048, Aug. 9, 1991; FDIC, 56 FR 37968, Aug. 9, 1991; and NCUA, 56 FR 37762, Aug. 8, 1991.

[2] Board of Governors, 59 FR 60094, Nov. 22, 1994; FDIC, 59 FR 60921, Nov. 29, 1994; OCC, 59 FR 63936, Dec. 12, 1994; and NCUA, 59 FR 67655, Dec. 30, 1994.

[3] 59 FR 65244, Dec. 19, 1994.

[4] 56 FR 27790, 27793, June 17, 1991.

[5] 5 U.S.C. 554(d)(1).

[6] See RSR Corp. v. F.T.C., 656 F.2d 718 (D.C. Cir. 1981); Environmental Defense Fund v. E.P.A., 548 F.2d 998, 1006, n.20 (D.C. Cir. 1976), cert. denied, 431 U.S. 925 (1977); Environmental Defense Fund v. E.P.A., 510 F.2d 1292, 1305 (D.C. Cir. 1975).

### III. Executive Order 12866

The OTS has determined that this final rule is not a significant regulatory action as defined in Executive Order 12866.

### IV. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 104 Pub. L. 104–4 (signed into law on March 22, 1995) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in one year. If the budgetary impact statement is required, section 205 of the Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this final rule is limited in application to the internal procedures of OTS. The OTS has therefore determined that the final rule will not result in expenditure by State, local, or tribal governments or by the private sector of more than $100 million. Accordingly, the OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

### List of Subjects in 12 CFR Part 509

Administrative practice and procedures, Penalties.

For the reasons set forth in the preamble, the Office of Thrift Supervision hereby amends part 509, chapter V, title 12, Code of Federal Regulation as set forth below:

**SUBCHAPTER A—ORGANIZATION AND PROCEDURES**

## PART 509—RULES OF PRACTICE AND PROCEDURE IN ADJUDICATORY PROCEEDINGS

1. The authority citation for part 509 continues to read as follows:

**Authority:** 5 U.S.C. 556; 12 U.S.C. 1464, 1467, 1467a, 1813; 15 U.S.C. 78*l*.

2. Section 509.9 is amended by revising paragraphs (a) and (b) and by adding a new paragraph (e) to read as follows:

**§ 509.9 Ex parte communications.**

(a) *Definition*—(1) *Ex parte communication* means any material oral or written communication relevant to the merits of an adjudicatory proceeding that was neither on the record nor on reasonable prior notice to all parties that takes place between:

(i) An interested person outside the Office (including such person's counsel); and

(ii) The administrative law judge handling that proceeding, the Director, or a decisional employee.

(2) *Exception.* A request for status of the proceeding does not constitute an *ex parte* communication.

(b) *Prohibition of ex parte communications.* From the time the notice is issued by the Director until the date that the Director issues the final decision pursuant to § 509.40(c) of this subpart:

(1) No interested person outside the Office shall make or knowingly cause to be made an *ex parte* communication to the Director, the administrative law judge, or a decisional employee; and

(2) The Director, administrative law judge, or decisional employee shall not make or knowingly cause to be made to any interested person outside the Office any *ex parte* communication.

* * * * *

(e) *Separation-of-functions.* Except to the extent required for the disposition of *ex parte* matters as authorized by law, the administrative law judge may not consult a person or party on any matter relevant to the merits of the adjudication, unless on notice and opportunity for all parties to participate. An employee or agent engaged in the performance of investigative or prosecuting functions for the Office in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review of the recommended decision under § 509.40 of this subpart, except as witness or counsel in public proceedings.

Dated: May 23, 1995.

By the Office of Thrift Supervision.

**Jonathan L. Fiechter,**

*Acting Director.*

[FR Doc. 95–13117 Filed 5–26–95; 8:45 am]

**BILLING CODE 6720–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 95–NM–74–AD; Amendment 39–9241; AD 95–09–03]**

### Airworthiness Directives; Jetstream Model 4101 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 95–09–03, that was sent previously to all known U.S. owners and operators of Jetstream Model 4101 airplanes by individual letters. This AD requires inspection to determine the number of hours time-in-service on the landing gear control unit, and modification of the cable (electrical wiring circuit) of the landing gear control unit. This amendment is prompted by a report of failure of a micro-switch in the landing gear control unit. The actions specified by this AD are intended to prevent uncommanded retraction of a landing gear, which could adversely affect airplane controllability.

**DATES:** Effective June 14, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 95–09–03, issued on April 18, 1995, which contained the requirements of this amendment.

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

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

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–74–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

**SUPPLEMENTARY INFORMATION:** On April 18, 1995, the FAA issued priority letter AD 95–09–03, which is applicable to Jetstream Model 4101 airplanes. That action was prompted by a report of failure of a micro-switch in the landing gear control unit. This failure was apparently due to a manufacturing defect. Investigation revealed that the micro-switch failure caused the units to

produce spurious signals, which resulted in an uncommanded retraction of the landing gear while the airplane was on the ground. This condition, if not corrected, could result in uncommanded retraction of a landing gear, which could adversely affect airplane controllability.

Jetstream has issued Alert Service Bulletin J41–A32–042, dated April 13, 1995, which describes procedures for inspection to determine the number of hours time-in-service on the landing gear control unit. This alert service bulletin also describes procedures for a modification of the cable (electrical wiring circuit) of the landing gear control unit, which will preclude uncommanded retraction of a landing gear in the event of a micro-switch failure. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as mandatory.

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

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued priority letter AD 95–09–03 to require inspection to determine the number of hours time-in-service on the landing gear control unit, and modification of the cable (electrical wiring circuit) of the landing gear control unit. The actions are required to be accomplished in accordance with the alert service bulletin previously described.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on April 18, 1995 to all known U.S. owners and operators of Jetstream Model 4101 airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

This is considered interim action. The manufacturer has advised that it currently is developing a modification that will further address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–74–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**95–09–03 Jetstream Aircraft Limited:** Amendment 39–9241. Docket 95–NM–74–AD.

*Applicability:* Model 4101 airplanes, constructor numbers 41001 through 41046 inclusive, and 41048 through 41052 inclusive; having either landing gear control unit part number 717701–1 or 717701 modification A; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different

actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent uncommanded retraction of the landing gear, which can adversely affect airplane controllability, accomplish the following:

(a) Within 8 hours time-in-service after the effective date of this AD, perform an inspection to determine the number of hours time-in-service on the landing gear control unit, in accordance with Jetstream Alert Service Bulletin J41–A32–042, dated April 13, 1995.

(1) For those airplanes on which the control unit has accumulated less than 200 hours time-in-service: Prior to further flight, modify the cable (electrical wiring circuit) of the landing gear control unit in accordance with the alert service bulletin.

(2) For those airplanes on which the control unit has accumulated 200 hours or more time-in-service: Within 50 hours time-in-service or within 7 days after the effective date of this AD, whichever occurs earlier, modify the cable (electrical wiring circuit) of the landing gear control unit in accordance with the alert service bulletin.

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

(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) The inspection and modification shall be done in accordance with Jetstream Alert Service Bulletin J41–A32–042, dated April 13, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 14, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 95–09–03, issued April 18, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on May 18, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 95–12711 Filed 5–26–95; 8:45 am]

BILLING CODE 4910–13–U

## 14 CFR Part 39

**[Docket No. 94–NM–79–AD; Amendment 39–9242; AD 95–11–07]**

## Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that requires inspections to detect cracking of H–11 attach bolts of the upper vertical stabilizer and replacement of these bolts and associated nuts with Inconel bolts and nuts. This amendment is prompted by failure of the attach bolts of the upper vertical stabilizer due to stress corrosion. The actions specified by this AD are intended to prevent undetected cracked or failed attach bolts that may lead to reduced structural integrity of the vertical stabilizer.

**DATES:** Effective June 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1995.

**ADDRESSES:** The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California ; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes was published in the **Federal Register** on September 19, 1994 (59 FR 47825). That action proposed to require inspections to detect cracking of H–11 attach bolts of the upper vertical stabilizer and replacement with Inconel attach bolts and associated nuts.

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

One commenter supports the proposed rule.

The Air Transport Association of America, on behalf of one of its member operators, requests that the 18-month compliance time for the repetitive inspections required by proposed paragraph (a)(1) be extended to 24 months. The commenter states that this extension in the compliance time would coincide with regularly scheduled maintenance visits, and would result in savings of over $2,800 per airplane if operators were not required to ''special schedule'' these airplanes for the inspection.

The FAA does not concur with the commenter's request to extend the compliance time. The FAA has determined that the compliance time, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required inspections without compromising safety. Further, the FAA's intent is to have the compliance time for the repetitive inspections coincide with the 18-month interval recommended by the manufacturer. Additionally, since the FAA has received an additional report of bolt failure, the FAA finds that the 18-month interval for the repetitive inspections is appropriate to ensure safety of the fleet.

Additionally, the Service Action Requirements Document (SARD) that is referenced in this final rule was developed by McDonnell Douglas only after extensive and detailed consultations with large numbers of operators of Model DC–10 series airplanes. The compliance times were based on these consultations and developed in order to minimize the economic impact on operators without compromising the safety objectives of

this AD. Further, the FAA has received no data substantiating that an extension of the compliance time to 24 months would provide an acceptable level of safety.

One commenter requests that the requirement to replace all H–11 attach bolts and associated nuts within 5 years as proposed in paragraph (c) be revised to be an option. The commenter asserts that these bolts need not be replaced within 5 years since the cause of the failed bolts has been attributed to stress corrosion, not fatigue. Further, the commenter contends that the bolts are easily inspected and that damage would be easily detectable. Finally, the commenter believes that service history (three incidents of one failed bolt per airplane in over 20 years) supports its assertion that mandatory replacement of these bolts is unnecessary.

The FAA does not concur. The FAA finds that bolt failure due to stress corrosion is less predictable than failure due to fatigue; therefore, the requirement to replace these bolts is even more crucial. Furthermore, the FAA does not consider that these inspections are easy to perform. Finally, although only one bolt has failed per airplane, thus far, the FAA has no technical data to substantiate preclusion of potential multiple failures of this bolt on any Model DC–10 series airplane. Additionally, the FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The replacement requirement is in consonance with these considerations.

Two commenters request that the cost estimate be revised, since it seems to be unrealistic. One of these commenters requests that the estimated cost of accomplishing the proposed actions include the time necessary to obtain access to the area, remove and re-install access doors, remove sealant from bolts, and remove and re-install bolts. The FAA does not concur. The appropriate number of work hours to accomplish the required actions (specified as 2 for the inspection and 8 for the replacement of the bolts) in the economic impact information, below, was provided to the FAA by the manufacturer based on the best data available to date. This number does not include the time required to gain access, remove parts, remove sealant from parts, and close up. The cost analysis in AD rulemaking actions typically does not include these costs, since there may be great variations in them from operator to operator.

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

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

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

There are approximately 426 McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 269 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspections at an average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $32,280, or $120 per airplane.

It will take approximately 8 work hours per airplane to accomplish the required replacements at an average labor rate of $60 per work hour. Required parts will cost approximately $9,009 per airplane. Based on these figures, the total cost impact of the replacements requirements of this AD on U.S. operators is estimated to be $2,552,541, or $9,489 per airplane.

Based on the above figures, the total cost impact of the inspection and replacement requirements of this AD on U.S. operators is estimated to be $2,584,821, or $9,609.

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**95–11–07 McDonnell Douglas:** Amendment 39–9242. Docket 94–NM–79–AD.

*Applicability:* Model DC–10–10, –10F, –15, –30, –30F, –40, and –40F series airplanes, and KC–10A (military) airplanes; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent undetected cracked or failed attach bolts that may lead to reduced structural integrity of the vertical stabilizer, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an ultrasonic inspection to detect cracking in the attach bolts of the upper vertical stabilizer, in accordance with McDonnell Douglas DC–10 Service Bulletin 55–20, Revision 2, dated August 4, 1994, unless accomplished within the last 18 months prior to the effective date of this AD in accordance with McDonnell Douglas DC–10 Service Bulletin 55–20, Revision 1, dated March 8, 1991, or Revision 2, dated August 4, 1994.

(1) If no cracking is detected in any bolt, repeat the inspection of the uncracked bolt thereafter at intervals not to exceed 18 months, until the requirements of paragraph (c) of this AD are accomplished.

(2) If cracking is detected in any bolt, prior to further flight, replace the cracked bolt and associated nut with a new Inconel attach bolt and associated nut, in accordance with the service bulletin. No further action is required by this AD for the new Inconel bolts and associated nuts.

(b) Compliance with the inspections required by paragraph (a) of this AD constitutes compliance with the inspections and reports required by paragraph (b) of AD 93–17–09, amendment 39–8680, for Principal Structural Element (PSE) 55.10.001/002. However, after installation of new Inconel bolts and associated nuts, in accordance with the requirements of paragraphs (a) and (c) of this AD, PSE 55.10.001/002 must continue to be inspected in accordance with AD 93–17–09.

(c) Within 5 years after the effective date of this AD, replace all H–11 attach bolts and associated nuts of the upper vertical stabilizer with new Inconel attach bolts and associated nuts, in accordance with McDonnell Douglas DC–10 Service Bulletin 55–20, Revision 1, dated March 8, 1991; or Revision 2, dated August 4, 1994. Such replacement constitutes terminating action for the requirements of this AD.

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

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

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

(f) The inspections and replacement shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 55–20, Revision 1, dated March 8, 1991, or McDonnell Douglas DC–10 Service Bulletin 55–20, Revision 2, dated August 4, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 29, 1995.

Issued in Renton, Washington, on May 18, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 95–12713 Filed 5–26–95; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Part 10

**[T.D. 95–45]**

## Reciprocal Privileges Extended to Aircraft Registered in Abu Dhabi, Bahrain, Oman and Qatar

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations by adding Abu Dhabi, Bahrain, Oman and Qatar to the list of countries whose registered commercial aircraft are entitled to certain privileges that exempt from Customs duties and internal revenue taxes their supplies and equipment that are withdrawn from Customs or Internal Revenue custody. Customs has been duly informed that the Governments of these countries allow exemption privileges to U.S.-registered aircraft in connection with international commercial operations that are substantially reciprocal to the exemption privileges that may be allowed under U.S. law to aircraft of foreign registry. Accordingly, Customs is extending reciprocal privileges.

**DATES:** This amendment is effective May 30, 1995. These reciprocal privileges were granted on June 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** William G. Rosoff, Entry Rulings Branch, (202) 482–7040.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 309 (a)(3) and (d) and 317, Tariff Act of 1930, as amended (19 U.S.C. 1309 (a)(3) and (d) and 1317), provide that foreign-registered aircraft engaged in foreign trade may withdraw from Customs or Internal Revenue custody, free of customs duties and internal revenue taxes imposed by reason of importation, articles of foreign or domestic origin for supplies (including equipment), ground equipment, maintenance, or repair of the aircraft. The privileges granted by these sections are allowed only if the Secretary of Commerce finds and advises the Secretary of the Treasury that the foreign country in question affords substantially reciprocal privileges to U.S.-registered aircraft. The regulations implementing these reciprocal duty-free customs and internal revenue tax exemptions are found at § 10.59(f), Customs Regulations (19 CFR 10.59(f)), which enumerates

those countries entitled to reciprocal privileges and designates the extent of the exemptions allowed.

In accordance with 19 U.S.C. 1309(d), the Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration, Department of Commerce, has advised the Customs Service by letter dated April 17, 1995, that following an appropriate investigation, it has been found that the Governments of Abu Dhabi, Bahrain, Oman and Qatar allow or would allow to aircraft of United States registry exemption privileges, in connection with international commerce operations, substantially reciprocal to those exemption privileges provided to aircraft of foreign registry by sections 309 and 317 of the Tariff Act of 1930, as amended. The effective date of this finding is June 1, 1994.

This document amends the list in § 10.59(f), Customs Regulations (19 CFR 10.59(f)) by adding Abu Dhabi, Bahrain, Oman and Qatar to the list of countries entitled to reciprocal privileges.

Authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations Branch.

### Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because the subject matter of this document does not constitute a departure from established policy or procedures, but merely announces the granting of an exemption for which there is a statutory basis, it has been determined, pursuant to 5 U.S.C. 553(b)(B), that the notice and public comment procedures thereon are unnecessary. Further, for the same reasons and because Abu Dhabi, Bahrain, Oman and Qatar have been found to be presently granting reciprocal exemption privileges to U.S.-registered aircraft, it has been determined, pursuant to 5 U.S.C. 553(d)(1) and (3), that a delayed effective date is not required. Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it 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.

### List of Subjects in 19 CFR Part 10

Aircraft, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements.

### Amendment to the Regulations

To reflect the reciprocal privileges granted to aircraft registered in Abu Dhabi, Bahrain, Oman and Qatar, part 10, Customs Regulations (19 CFR part 10) is amended as set forth below:

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for part 10 continues to read, in part, as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

Section 10.59 also issued under 19 U.S.C. 1309, 1317;

* * * * *

### § 10.59 [Amended]

2. Section 10.59(f) is amended in the table by adding to the column headed ''Country'', in appropriate alphabetical order, ''Abu Dhabi'', ''Bahrain'', ''Oman'', and ''Qatar'' and by adding ''95–45'' adjacent to the names of the above-listed countries in the column headed ''Treasury Decision(s)''.

Dated: May 23, 1995.

**Harold M. Singer,**

*Chief, Regulations Branch.*

[FR Doc. 95–13070 Filed 5–26–95; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 944

## Utah Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving, with an exception and additional requirements, a proposed amendment to the Utah regulatory program (hereinafter referred to as the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah proposed revisions to and additions of rules pertaining to retention of highwalls in the postmining landscape. Utah submitted the amendment with the intent of revising its program to be consistent with the corresponding Federal regulations, clarifying ambiguities, and improving operational efficiency.

**EFFECTIVE DATE:** May 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Arthur W. Abbs, Acting Director, Albuquerque Field Office, 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. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

### II. Proposed Amendment

By letter dated November 12, 1993, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT–875). Utah submitted the proposed amendment at its own initiative and in response to the required State program amendments codified at 30 CFR 944.16 (a), (b), (c), and (d). The provisions of the Utah Administrative Rules (Utah Admin. R.) that Utah proposed to revise were: Utah Admin. R. 645–301–553.200, spoil and waste; Utah Admin. R. 645–301–553.252, refuse piles; Utah Admin. R. 645-301–553.500, previously mined areas (PMA's), continuously mined areas (CMA's), and areas subject to the approximate original contour (AOC) requirements; Utah Admin. R. 645–301–553.520, exception from complete highwall elimination for CMA's; Utah Admin. R. 645–301–553.523, stability criteria for highwall remnants and retained highwalls; Utah Admin. R. 654–301–553.600 and .620, AOC variances for incomplete elimination of highwalls in PMA's or CMA's; Utah Admin. R. 654–301–553.631, mountaintop removal operations; Utah Admin. R. 654–301–553.650, required showing by the operator and required findings by the regulatory authority necessary for approval of a retained highwall; Utah Admin. R. 645–301–651, height restrictions for retained highwalls; Utah Admin. R. 645–301–553.652, the applicability date of Utah's AOC standards at Utah Admin. R. 645–301.553.651 through .655; Utah Admin. R. 645–301–553.653, the restoration of retained highwalls to cliff-type habitats required by the flora and fauna existing prior to mining; and Utah Admin. R. 645–301–553.654, compatibility of retained highwalls with both the

approved postmining land use and the visual attributes of the area.

OSM announced receipt of the proposed amendment in the December 8, 1993, **Federal Register** (58 FR 64529), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–879). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 7, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of Utah Admin. R. 645.–301–553.110, backfilling and grading of disturbed areas; Utah Admin. R. 645–301–553.500 and .600, the organization of Utah's rules pertaining to retained highwalls; Utah Admin. R. 645–301–553.510 and .522, general backfilling and grading requirements; Utah Admin. R. 645–301–553.522, slope stability and drainage; Utah Admin. R. 645–301–553.500 and .523, stability criteria for retained highwalls; Utah Admin. R. 645–301–553.620, AOC variances; Utah Admin. R. 645–301–553.650, AOC and stability requirements for highwall retention; Utah Admin. R. 645–301–553.651, height and length of retained highwalls; Utah Admin. R. 645–301–553.652, the applicability date of Utah's AOC alternative; and various editorial comments concerning Utah Admin. R. 645–301–553.120, .631, .650, and .655. By letter dated March 31, 1994, OSM notified Utah of the concerns (administrative record No. UT–908).

By letter dated April 18, 1994, Utah requested a meeting between the Utah Division of Oil, Gas and Mining (Division) and OSM for the purpose of addressing the issues set forth by OSM in the March 31, 1994, letter (administrative record No. UT–918). On May 12, 1994, the Division and OSM held an executive session at the Western Support Center in Denver, Colorado. OSM posted a notice of the executive session in the Western Support Center (administrative record No. UT–925). OSM summarized the session and entered the summary into the administrative record (administrative record UT–942).

By letter dated June 29, 1994, Utah submitted a revised amendment in response to OSM's March 31, 1994, letter as clarified at the May 12, 1994, session (administrative record No. UT–941). In this submittal, Utah, at its own initiative, also proposed to (1) create a definition of the term ''continuously mined areas'' and (2) not use the terms ''highwall remnant'' and ''retained highwall.''

OSM announced receipt of the proposed revised amendment in the July 14, 1994, **Federal Register** (59 FR 35871) and reopened and extended the public comment period (administrative record No. UT–951). The public comment period ended on July 29, 1994.

During its review of the revised amendment, OSM identified additional concerns relating to the provisions of Utah Admin. R. 645–100–200, definition of the term ''continuously mined areas;'' Utah Admin. R. 645–301–553, general provisions on highwalls and backfilling and grading; Utah Admin. R. 645–301–553.110, backfilling and grading of disturbed areas; Utah Admin. R. 645–301–553.120, backfilling and grading of spoil and waste; Utah Admin. R. 645–301–553.130, slope stability requirements; Utah Admin. R. 645–301–553.510, remining operations on PMA's, CMA's, and areas with remaining highwalls subject to AOC provisions; Utah Admin. R. 645–301–553.550, .551, and .552, AOC exceptions; Utah Admin. R. 645–301–553.650, highwall management under the AOC provisions; Utah Admin. R. 645–301–553.651, nonmountaintop removal mining on steep slopes; Utah Admin. R. 645–301–553.652, remaining highwalls under the AOC provisions; and Utah Admin. R. 645–301–553.653, applicability date. By letter dated August 24, 1994, OSM notified Utah of the concerns (administrative record No. UT–967).

By telephone conversation on August 30, 1994, Utah requested a meeting between the Division and OSM for the purpose of addressing the date of applicability of Utah's rules that allow the replacement of preexisting cliffs or similar natural premining features with retained highwalls (administrative record No. UT–1010). On September 7, 1994, the Division and OSM held an executive session at the Western Support Center in Denver, Colorado. OSM posted a notice of the executive session in the Western Support Center (administrative record No. UT–969). OSM summarized the session and entered the summary into the administrative record (administrative record UT–970).

By letter dated November 3, 1994, Utah submitted a revised amendment in response to OSM's August 24, 1994, letter, as clarified at the September 7, 1994, session (administrative record No. UT–990).

OSM announced receipt of the proposed revised amendment in the December 2, 1994, **Federal Register** (59 FR 61855) and reopened and extended the comment period (administrative record No. UT–996). The public comment period ended on December 19, 1994.

## III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with an exception and additional requirements, that the proposed program amendment submitted by Utah on November 12, 1993, and as revised by it on June 28 and November 3, 1994, is no less stringent than SMCRA and no less effective than the corresponding Federal regulations. Accordingly, the Director approves, with one exception, the proposed amendment and requires Utah to revise its program.

The Director notes that in a December 13, 1982, final rule **Federal Register** notice (47 FR 55672, 55673), the Secretary of the Interior approved as part of the Utah program a provision that the Director in a subsequent September 17, 1993, final rule **Federal Register** notice (58 FR 48600) referred to as the Utah ''AOC alternative.'' OSM created the term ''AOC alternative'' and Utah does not define it in its program. In this proposed amendment, Utah used the terminology ''areas with remaining highwalls subject to the AOC provisions,'' which is the Utah counterpart terminology to what OSM referred to in the past as the ''AOC alternative.'' Accordingly, and throughout the remainder of this **Federal Register** notice, the Director refers to what was previously called the ''AOC alternative'' in the September 17, 1993, final rule **Federal Register** notice as ''areas with remaining highwalls subject to the AOC provisions.''

Also, in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600), the Director placed upon the Utah program four required State program amendments at 30 CFR 944.16 (a), (b), (c), and (d) (administrative record No. UT–872). Specifically, the **Federal Register** notice revised 30 CFR 944.16 to read as follows:

*Section 944.16 Required Program Amendments*

* * * * *

(a) By November 16, 1993, Utah shall submit a proposed amendment for highwall retention and approximate original contour (AOC) at Utah Admin. R. 645–301–553.650 to require that, prior to obtaining Utah's approval for highwalls to be retained, the operator must establish and Utah must find in writing that any proposed highwall will comply with the approximate original contour criteria at Utah Admin. R. 645–301–553.651 through 655 and the stability requirement at Utah Admin. R. 645–301–553.523.

(b) By November 16, 1993, Utah shall submit a proposed amendment for highwall

retention and approximate original contour at Utah Admin. R. 645–301–553.651 restricting the height of retained highwalls to the height of cliffs or cliff-like escarpments that were replaced or disturbed by the mining operations.

(c) By November 16, 1993, Utah shall submit a proposed amendment stating that its requirement at Utah Admin. R. 645–301–553.652 has an applicability date of December 13, 1982, and applies to any highwall retained pursuant to the approximate original contour alternative.

(d) By November 16, 1993, Utah shall submit a proposed amendment for Utah Admin. R. 645–301–553.523 (1) eliminating the inconsistency between the title ''previously mined areas'' at Utah Admin. R. 645–301–553.500 and the content of subsection Utah Admin. R. 645–301–553.523, and clarifying that the stability criteria of proposed Utah Admin. R. 645–301–553.523 apply to the AOC alternative at Utah Admin. R. 645–301–553.650, (2) specifying that a highwall remnant or retained highwall must not pose a hazard to the environment, and (3) deleting the phrase ''not to exceed either the angle of repose or such lesser slope as is necessary to.''

However, in an April 7, 1994, final rule **Federal Register** notice (59 FR 16538), OSM inadvertently removed the above required State program amendments from 30 CFR 944.16 (administrative record No. UT–913). In addition, and subsequent to this inadvertent removal of the required State program amendments originally codified at 30 CFR 944.16 (a), (b), (c), (d), OSM published two final rule **Federal Register** notices (July 11, 1994, 59 FR 35255; September 27, 1994, 59 FR 49185) and placed new required State program amendments on the Utah program at 30 CFR 944.15 (a) and (b) respectively (administrative record Nos. UT–947 and UT–977). Throughout this notice, OSM refers to the required amendments associated with this proposed amendment and originally codified as 30 CFR 944.16 (a), (b), (c), and (d) as ''the required amendments previously codified at 30 CFR 944.16 (a), (b), (c), and (d) (September 17, 1993, 58 FR 48600).''

*1. Nonsubstantive Revisions to Utah's Rules*

Utah proposed revisions to the following previously-approved rules that are nonsubstantive in nature and consist of minor editorial, grammatical, and recodification changes (corresponding Federal provisions are listed in parentheses):

Utah Admin. R. 645–301–553 (30 CFR 816.102 and 817.102), contemporaneous reclamation for backfilling and grading;

Utah Admin. R. 645–301–553.130 (30 CFR 816.102(a)(3)), 1.3 static safety factor;

Utah Admin. R. 645–301–553.150 (30 CFR 816.102(a)(5) and 817.102(a)(5)), postmining land use;

Utah Admin. R. 645–301–553.200 (30 CFR 816.102(c) and 817.102(c)) backfilling and grading of spoil and waste;

Utah Admin. R. 645–301–553.210 (30 CFR 816.71 and 817.71), general requirements for disposal of excess spoil;

Utah Admin. R. 645–301–553.220 (30 CFR 816.102(d) and 817.102(d)), placement of spoil;

Utah Admin. R. 645–301–553.252 (30 CFR 816.83(c)(4) and 817.83(c)(4)), final grading of refuse piles and coal mine waste;

Utah Admin. R. 645–301–553.300 (30 CFR 816.102(f) and 817.102(f)), covering of exposed coal seams;

Utah Admin. R. 645–301–553.510 (30 CFR 816.106(a) and 817.106(a)), remining operations on PMA's, CMA's, and areas with remaining highwalls subject to AOC provisions;

Utah Admin. R. 645–301–553.540, previously codified as Utah Admin. R. 645–301–553.524 (30 CFR 816.106(b)(4) and 817.106(b)(4)), spoil placement;

Utah Admin. R. 645–301–553.300, previously codified as Utah Admin. R. 645–301–553.653 (30 CFR Parts 816 and 817 concerning backfilling and grading requirements for both surface and underground mining operations and sections 515 (b)(2) and (b)(3) of SMCRA), modifications to retained highwalls restoring cliff-type habitats required by premining flora and fauna;

Utah Admin. R. 645–301–553.650.400, previously codified as Utah Admin. R. 645–301–553.654 (30 CFR 784.15 and sections 515 (b)(2) and (b)(3) of SMCRA), compatibility of retained highwalls with the approved postmining land use and visual attributes of the area; and

Utah Admin. R. 645–301–553.650.500, previously codified as Utah Admin. R. 645–301–553.655, exemption from obtaining a variance from AOC requirements.

Because the proposed revisions to these previously-approved rules are nonsubstantive in nature, the Director finds that these proposed Utah rules are no less effective than the Federal regulations and no less stringent than SMCRA. The Director approves these proposed rules.

*2. Substantive Revisions to Utah's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations and SMCRA*

Utah proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulations (listed in parentheses):

Utah Admin. R. 645–301–553.100 (30 CFR 816.102(a) and 817.102(a)), section entitled ''disturbed areas;'' and

Utah Admin. R. 645–301–553.230 (30 CFR 816.102(j) and 817.102(j)), general requirements for backfilling and grading.

Because these proposed Utah rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rule.

*3. Utah Admin. R. 645–100–200, Definition of ''Continuously Mined Areas''*

Utah proposed to define ''continuously mined areas'' (CMA's) at Utah Admin. R. 645–100–200 to mean ''land which was mined for coal by underground mining operations prior to August 3, 1977, the effective date of the Federal Act, and where mining continued after that date.'' The ''Federal Act'' is SMCRA.

The Federal backfilling and grading regulations at 30 CFR 817.106(a), (b), and (b)(1) allow an exception from the requirement for complete highwall elimination for underground mining operations that remine highwalls in PMA's, which means land affected by surface coal mining operations prior to August 3, 1977, the effective date of SMCRA, that have not been reclaimed to the standards of SMCRA (January 8, 1993, 58 FR 3466). These regulations allow for the incomplete elimination of such highwalls where the volume of all reasonably available spoil is insufficient to completely backfill the reaffected or enlarged highwall.

As part of the Utah program, the Director approved, in a September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48603), a limited exception to the requirement to completely eliminate all highwalls for CMA's. Utah's approved CMA rules differ from the Federal PMA regulations in that they extend the exception for incomplete highwall elimination to underground mining operations where the highwall was created prior to

August 3, 1977, but continued to be used thereafter.

In approving Utah's CMA provisions, the Director reasoned, in part, that they provide equitable treatment for pre-SMCRA mines that have operated continuously since before the effective date of SMCRA and afford the same variance from AOC requirements as is provided in the PMA regulations at 30 CFR 817.106 for remaining sites where operation of a pre-SMCRA mine has been interrupted and mining was begun again at the sites after the effective date of SMCRA.

Utah's proposed definition of ''continuously mined areas'' is limited in accordance with the Director's approval in the September 17, 1993, final rule **Federal Register** notice. That is, Utah's newly-proposed definition at Utah Admin. R. 645–100–200 limits the term to underground mining operations. In the aforementioned final rule **Federal Register** notice, OSM approved Utah's CMA provisions at Utah Admin. R./645–301–553.510, .520, and .521 ''[i]nsofar as they apply to underground mining operations that operated prior to August 3, 1977, and have continuously operated since that time.'' Therefore, Utah's proposed definition of the term ''continuously mined areas'' is not inconsistent with the Federal regulations at 30 CFR 817.106(a), (b), and (b)(1) and is in accordance with Utah's previously approved CMA provisions. On this basis, the Director approves Utah's proposed rule.

However, with respect to CMA's, the Director wishes to emphasize that the exception to the requirement to completely eliminate all highwalls should, like the similar Utah exception for PMA's, be narrowly construed and should ensure that the highwall is removed to the maximum extent technically practical (September 16, 1983, 48 FR 41720, 41729). Thus, for example, where an underground mining operation has been continuously mined since before the effective date of SMCRA (August 3, 1977) and contains both pre- and post-SMCRA face-up or portal areas, this exception must be understood as applying *only* to the pre-SMCRA face-up areas. Any post-SMCRA portal areas within the same mining operation must comply with the requirement to completely eliminate all highwalls. The Director interprets Utah's proposed definition of the term ''continuously mined areas'' in this limited fashion.

*4. Utah Admin. R. 645–301–553.110, Exceptions to the Requirement That Disturbed Areas Achieve AOC*

Utah proposed to revise existing Utah Admin. R. 645–301–553.110 to require that disturbed areas achieve AOC except as provided for in the reorganized and recodified provisions at Utah Admin. R. 645–301–500 through Utah Admin. R. 645–301–540 (PMA's, CMA's, and areas subject to the AOC provisions), Utah Admin. R. 645–301–553.600 through Utah Admin. R. 645–301–553.612 (PMA's and CMA's), Utah Admin. R. 645–302–270 (nonmountaintop removal on steep slopes), Utah Admin. R. 645–302–220 (mountaintop removal mining), Utah Admin. R. 645–301–553.700 (thin overburden), and Utah Admin. R. 645–301–553.800 (thick overburden). In conjunction with consolidating these exceptions into one provision, Utah also proposed to delete provisions that formerly existed at Utah Admin. R. 645–301–553.600 (introductory language), .610 (nonmountaintop removal on steep slopes), .620 (PMA's), .630 (mountaintop removal mining), .640 (introductory language), .641 (thin overburden), and .642 (thick overburden).

The Federal regulations at 30 CFR 816.102(k) provide variances from AOC for (1) steep-slope mining operations, (2) PMA's, (3) mountaintop removal operations, (4) thin overburden areas, and (5) thick overburden areas. The provisions at 30 CFR 817.102(k) provide variances from AOC for (1) steep-slope mining operations and (2) PMA's.

Utah's proposed revisions to Utah Admin. R. 645–301–553.110, which create a general AOC provision that references all exceptions to the requirement that disturbed areas must be backfilled and graded to achieve AOC, are consistent with the corresponding Federal regulations at 30 CFR 816.102(k) and 817.103(k) and clarify and improve the organizational nature of Utah's AOC rules. However, the cross-referenced provisions contain citation errors. Specifically, Utah's cross-referenced provisions in the phrase ''R645–301–500 through R645–301–540,'' regarding PMA's, CMA's, and areas subject to the AOC provisions, should read ''R645–301–*553*.500 through R645–301–*553*.540.'' Utah's incorrectly cross-referenced citations create a regulatory inconsistency within the Utah program.

For the reasons discussed above, the Director approves Utah's proposed consolidation of all exceptions to the requirement that disturbed areas must be backfilled and graded to achieve AOC into Utah Admin. R. 645–301–553.110. In addition, the Director approves Utah's proposed deletion of existing Utah Admin. R. 645–301–553.600 and those provisions identified above that formerly existed elsewhere in Utah's rules prior to the consolidation. However, the Director further requires Utah to revise the cross-referenced provisions in the phrase ''R645–301–500 through R645–301–540,'' regarding PMA's, CMA's, and areas subject to the AOC provisions, to read ''R645–301–*553*.500 through R645–301–*553*.540.''

*5. Utah Admin. R. 534–301–553.120, Backfilling and Grading of Spoil and Waste*

Utah proposed to revise existing Utah Admin. R. 645–301–553.120 to require that disturbed areas be backfilled and graded to ''[e]liminate all highwalls, spoil piles, and depressions, except as provided in R645–301–552.100 (small depressions); R645–301–553.500 through R645–301–540 (PMA's, CMA's, and areas subject to approximate original contour (AOC) provisions; R645–301–553.600 through R645–301–553.612 (PMA's and CMA's); and in R645–301–553.650 through R645–301–553.653 (highwall management under the AOC provisions).''

The Director notes that the exceptions listed at proposed Utah Admin. R. 645–301–553.120 for PMA's, CMA's, and areas subject to AOC provisions are exceptions only to the requirement to completely eliminate all highwalls, and are not exceptions to the separate requirements to completely eliminate all spoil piles and depressions.

The Federal regulations at 30 CFR 816.102(a)(2) and 817.102(a)(2) require that disturbed areas be backfilled and graded to eliminate all highwalls, spoil piles, and depressions except as provided in 30 CFR 816.102(h) (small depressions) and (k)(3)(iii) (previously mined highwalls).

Utah's proposed revisions to Utah Admin. R. 645–301–553.120, which create a general provision that cross-references all exceptions to the requirement that disturbed areas must be backfilled and graded to eliminate all highwalls, spoil piles, and depressions, are consistent with the corresponding Federal regulations at 30 CFR 816.102(a)(2) and 817.102(a)(2) and clarify and improve the organizational nature of Utah's rules. However, the cross-referenced provisions contain citation inconsistencies. Specifically, Utah's cross-referenced provisions in the phrase ''R645–301–553.500 through R645–301–540,'' regarding PMA's, CMA's, and areas subject to the AOC provisions, should read ''R645–301–553.500 through R645–301–*533*.540.'' In

addition Utah cross-references provisions in the phrase ''R645–301–553.650 through R645–301–553.653.'' However, Utah Admin. R. 645–301–553.653 no longer exists in Utah's reorganized rules and has now been recodified as Utah Admin. R. 645–301–553.651. Utah's incorrectly cross-referenced citations create a regulatory inconsistency within the Utah program.

For the reasons discussed above, the Director approves proposed Utah Admin. R. 645–301–553.120 but further requires Utah to (1) revise the cross-referenced provisions in the phrase ''R645–301–553.500 through R645–301–540,'' regarding PMA's, CMA's, and areas subject to the AOC provisions, to read ''R645–301–553.500 through R645–301–*553*.540'' and (2) revise the cross-referenced provisions in the phrase ''R645–301–553.650 through R645–301–553.653'' to read ''R645–301–553.650 through R645–301–553.*651*.''

*6. Utah Admin. R. 634–301–553.500, PMA's, CMA's, and Areas With Remaining Highwalls Subject to AOC Provisions*

In partial response to the required amendment previously codified at 30 CFR 994.16(d)(1) (September 17, 1993, 58 FR 48600), Utah proposed to revise the existing title of section Utah Admin. R. 645–301–553.500 to make it consistent with the content of subsections Utah Admin. R. 645–301–553.510 through .540. Specifically, Utah proposed to revise the title of section Utah Admin. R. 645–301–553.500 from ''Previously Mined Areas'' to ''Previously mined areas (PMA's), Continuously Mined Areas (CMA's), and Areas with Remaining Highwalls Subject to the AOC Provisions.''

Utah proposed this change to eliminate the inconsistency between the title ''Previously Mined Areas'' at Utah Admin. R. 645–301–553.500 and the content of recodified subsection Utah Admin. R. 645–301–553.530 (previously codified as .523), which addresses highwall stability criteria (see finding No. 9). The proposed title ''Previously mined areas (PMA's), Continuously Mined Areas (CMA's), and Areas with Remaining Highwalls Subject to the AOC Provisions'' for Utah Admin. R. 645–301–553.500 is consistent with the term ''remaining highwalls,'' which Utah uses at Utah Admin. R. 645–301–553.530 in place of the terms ''retained highwall'' and ''highwall remnant.''

The Director finds that Utah's proposed revisions to the title of section Utah Admin. R. 645–301–553.500 are not inconsistent with the Federal AOC, PMA, and CMA provisions at 30 CFR 816.102, 817.102, 816.106, and 817.106. The Director also finds that the proposed revisions satisfy the part of the required amendment previously codified at 30 CFR 944.16(d)(1) that applied to Utah Admin. R. 645–301–553.500. For these reasons, the Director approves Utah's proposed revisions to the title of section Utah Admin. R. 645–301–553.500.

*7. Utah Admin. R. 634–301–553.520, Backfilling and Grading of Remaining Highwalls*

Utah proposed to revise existing Utah Admin. R. 645–301–553.520 to make it consistent with the requirements for remaining operations on PMA's, operations on CMA's, and operations on areas with remaining highwalls subject to the AOC provisions. Specifically, Utah proposed to consolidate a phrase from original Utah Admin. R. 645–301–553.520 with the text of Utah Admin. R. 645–301–553.522 to create new Utah Admin. R. 645–301–553.520 which states that ''[t]he backfill of all remaining highwalls will be graded to a slope that is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.'' In conjunction with this consolidation, Utah deleted the citation previously codified at Utah Admin. R. 645–301–553.522.

The Federal regulations at 30 CFR 816.106(b)(2) and 817.106(b)(2) require that ''the backfill [from remaining operations on PMA's] shall be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.'' The Federal regulations at 30 CFR 816.106(b)(2) and 817.106(b)(2) apply only to remaining operations on PMA's. Utah's proposed rule differs from the Federal regulations in that Utah proposes to extend its rules concerning the backfilling and grading requirements for remaining highwalls to operations on CMA's and operations on areas with remaining highwalls subject to the AOC provisions. Although there are no Federal regulations that directly correspond to Utah's application of its rule to operations on CMA's and operations on areas with remaining highwalls subject to the AOC provisions, the Federal regulations at 30 CFR 816.106(b)(2) and 817.106(b)(2), as discussed in the September 17, 1993, final rule **Federal Register** notice, are analogous to this Utah provision.

Utah's proposed revisions to Utah Admin. R. 645–301–553.520, regarding the requirements for remaining operations on PMA's, CMA's, and areas with remaining highwalls subject to the AOC provisions, are not inconsistent with the corresponding Federal regulations at 30 CFR 816.106(b)(2) and 817.106(b)(2). For this reason, the Director approves Utah's proposed revision to Utah Admin. R. 645–301–553.520.

*8. Utah Admin. R. 645–301–553.530, Stability Criteria for Backfilling and Grading*

In partial response to the required amendment previously codified at 30 CFR 944.16(d) (September 17, 1993, 58 FR 48600), Utah proposed to revise existing Utah Admin. R. 645–301–553.523, regarding highwall retention stability criteria. Utah proposed recodifying the rule as Utah Admin. R. 645–301–553.530 and relocating it under the reorganized section of its rules at Utah Admin. R. 645–301–553.500 entitled ''PMA's, CMA's and Areas with Remaining Highwalls Subject to the AOC Provisions,'' which was previously entitled ''previously mined areas'' (see finding No. 6). Utah also proposed to delete the phrase ''not to exceed either the angle of repose or such lessor slope as is necessary to'' from recodified Utah Admin. R. 645–301–553.530. Lastly, Utah proposed to revise the rule to require that (1) any remaining highwall will be stable and not pose a hazard to the public health or safety or to the environment, and (2) remaining highwalls must achieve a minimum long-term static safety factor of 1.3 and prevent slides, or meet an alternative criterion that the operator proposes and demonstrates to the satisfaction of the Division that the remaining highwall is stable does not pose a hazard to the public health and safety or to the environment.

By changing the PMA title of Utah Admin. R. 645–301–553.530 to include CMA's and areas with remaining highwalls subject to the AOC provisions, Utah in effect proposed that remaining highwalls on PMA's and CMA's and areas with remaining highwalls subject of the AOC provisions comply with the proposed stability criteria of Utah Admin. R. 645–301–553.530.

The Federal general backfilling and grading regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) require that disturbed areas be backfilled and graded to achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides. The Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) concerning backfilling and grading of PMA's require that any highwall remnant be stable and not pose a hazard to the public health and safety

or to the environment and that the operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable. The Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) apply only to remaining operations on PMA's. Utah's proposed rule differs from the Federal regulations in that Utah proposes to extend its rules concerning the stability criteria for backfilling and grading of remaining highwalls to operations on CMA's and operations on areas with remaining highwalls subject to the AOC provisions. Although there are no Federal regulations that directly correspond to Utah's application of its rule to operations on CMA's and operations on areas with remaining highwalls subject to the AOC provisions, the Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3), as discussed in the September 17, 1993, final rule **Federal Register** notice, are analogous to this Utah provision.

The Director emphasizes that, in all cases, the Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) require the backfill material at the base or against a highwall to have a minimum long-term static safety factor of 1.3 and prevent slides. The Director recognizes that a highwall remnant extending above the backfill material does not have to achieve the 1.3 minimum long-term static safety factor. However, the Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) and require (1) that any highwall remnant be stable and not pose a hazard to the public health and safety or to the environment and (2) that an operator demonstrate to the satisfaction of the regulatory authority that the highwall remnant is stable.

Utah's proposed revisions to recodified Utah Admin. R. 645–301–553.530 to require that its stability criteria apply to any remaining highwall left in accordance with the approved State program, whether in connection with a PMA, a CMA or an area with remaining highwalls subject to Utah's AOC provisions is not inconsistent with the Federal regulations at 30 CFR 816.102(a)(3), 817.102(a)(3), 816.106(b)(3) and 817.106(b)(3).

The portion of Utah's proposed revisions to recodified Utah Admin. R. 645–301–553.530 deleting the phrase ''not to exceed either the angle of repose or such lesser slope as is necessary to,'' as previously required by 30 CFR 944.16(d), is not inconsistent with the Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3).

The portion of Utah's proposed revisions at Utah Admin. R. 645–301–553. 530 that allows an operator to provide alternative stability criterion to establish that a highwall remnant or retained highwall is stable and does not pose a hazard to the public health and safety or to the environment is not inconsistent with the Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3).

For the reasons discussed above, the Director approves Utah's proposed rule revisions to recodified Utah Admin. R. 645–301–553.530. The Director also finds that the proposed revisions satisfy the part of the required amendment previously codified at 30 CFR 944.16(d)(1) that applied to recodified Utah Admin. R. 645–301–553.530 and satisfy in total the required amendments previously codified at 30 CFR 944.16(d)(2) and (3).

*9. Utah Admin. R. 634–301–553.600, PMA's and CMA's*

Utah proposed to delete existing Utah Admin. R. 645–301–553.650 and create new Utah Admin. R. 645–301–553.600, which serves as the section title and introduction to Utah's reorganized rule requirements at Utah Admin. R. 645–301–553.610 through .612 for PMA's and CMA's (see finding Nos. 11 and 12).

The counterpart Federal regulations at 30 CFR 816.106 and 817.106 pertain to backfilling and grading requirements for PMA's. The Federal regulations at 30 CFR 816.106 and 817.106 apply only to backfilling and grading requirements for remaining operations PMA's. Utah's proposed rule differs from the Federal regulations in that Utah proposes to extend its rules concerning the backfilling and grading requirements for remaining highwalls to operations on CMA's. Although there are no Federal regulations that directly correspond to Utah's application of its rule to CMA's, the Federal regulations at 30 CFR 816.106 and 817.106, as discussed in the September 17, 1993, final rule **Federal Register** notice, are analogous to this Utah provision.

Newly-created Utah Admin. R. 645–301–553.600 is consistent with Utah's proposed rule reorganization and is not inconsistent with the corresponding Federal regulations at 30 CFR 816.106 and 817.106. Accordingly, the Director approves Utah's proposed rule revision.

*10. Utah Admin. R. 634–301–553.610, Exceptions for PMA's and CMA's From the Requirement for Complete Highwall Elimination*

Utah proposed to revise the text of the existing provision at Utah Admin. R. 645–301–553.520 and relocate it at new Utah Admin. R. 645–301–553.610 under the newly-created section of Utah's rules at Utah Admin. R. 645–301–553.600 addressing PMA's and CMA's (see finding No. 10). Specifically, proposed Utah Admin. R. 645–301–553.610 states that highwalls on PMA's or CMA's must be eliminated to the maximum extent technically practical, but are not required to be completely eliminated where the volume of all reasonably available spoil is demonstrated in writing to the Division to be insufficient to completely backfill the reaffected or enlarged highwall.

Newly-created Utah Admin. R. 645–301–553.610, which allows an exception for PMA's and CMA's to the requirement that highwalls be completely eliminated, is consistent with the proposed reorganization of Utah's rules. In addition, because operations on both PMA's and CMA's must eliminate the highway to the maximum extent technically practical and make a written demonstration that all reasonably available spoil was used, proposed Utah Admin. R. 645–301–553.610 is not inconsistent with the Federal regulations at 30 CFR 816.106(b)(2) and 817.106(b)(2). For this reason, the Director approves newly-created Utah Admin. R. 645–301–553.610.

*11. Utah Admin. R. 634–301–553.611 and .612, Backfilling and Grading of Reasonably Available Spoil*

Utah proposed to delete existing Utah Admin. R. 645–301–553.521 and create new provisions at Utah Admin. R. 645–301–553.611 and .612 respectively, which consist of the revised text of former Utah Admin. R. 645–301–553.521. Newly-created Utah Admin. R. 645–301–553.611 requires that all spoils generated by the remining operation or CMA and any other reasonably available spoil will be used to backfill the area. Newly-created Utah Admin. R. 645–301–553.612 requires that reasonably available spoil in the immediate vicinity of the remining operation or CMA will be included within the permit area.

The Federal regulations at 30 CFR 816.106(b)(1) and 817.106(b)(1) require that all spoil generated by the remining operation on PMA's and any other reasonably available spoil will be used to backfill the area, and reasonably available spoil in the immediate vicinity of the remining operation shall be included within the permit area. The Federal regulations at 30 CFR 816.106(b)(1) and 817.106(b)(1) apply only to backfilling and grading requirements for remining operations on PMA's. Utah's proposed rules differ from the Federal regulations in that Utah proposes to extend its rules concerning the requirements for backfilling and grading of reasonably

available spoil to operations with remaining highwalls on CMA's. Although there are no Federal regulations that directly correspond to Utah's application of its rules to CMA's, the Federal regulations at 30 CFR 816.106(b)(1) and 817.106(b)(1), as discussed in the September 17, 1993, final rule **Federal Register** notice, are analogous to these Utah provisions.

Utah's newly-created provisions at proposed Utah Admin. R. 645–301–553.611 and .612 are in accordance with Utah's proposed rule reorganization and are not inconsistent with the Federal requirements. Accordingly, the Director approves Utah's newly-created provisions at Utah Admin. R. 645–301–553.611 and .612.

*12. Utah Admin. R. 645–301–553.650, Highwall Management Under the AOC Provisions*

In response to the required amendment previously codified at 30 CFR 944.16(a) (September 17, 1993, 58 FR 48600), Utah proposed to create new Utah Admin. R. 645–301–553.650 by proposing a section entitled ''Highwall Management Under the Approximate Original Contour Provisions.'' Newly-created Utah Admin. R. 645–301–553.650 requires that for situations where a permittee seeks approval for a remaining highwall under the AOC provisions, the permittee will establish and the Division will find in writing that the remaining highwall will achieve the stability and AOC requirements of certain cited applicable rules.

While there are no Federal regulations that directly correspond to newly-created Utah Admin. R. 645–301–553.650, the Federal regulations at 30 CFR 816.102(k)(3)(ii) and 817.102(k)(1) explicitly require operators to obtain the regulatory authority's approval for determinations relating to AOC. Because Utah's proposed rule at Utah Admin. R. 645–301–553.650 does explicitly require that, prior to the Division approving the retention of a highwall, the permittee will establish and the Division will find in writing that the remaining highwall will achieve the applicable stability requirements and will meet the applicable AOC criteria, it is not inconsistent with the Federal regulations at 30 CFR 816.102(k)(3)(ii) and 817.102(k)(1).

Accordingly, the Director approves newly-created Utah Admin. R. 645–301–553.650. The Director also finds that the proposed rule satisfies the required amendment previously codified at 30 CFR 944.16(a).

*13. Utah Admin. R. 645–301–553.650.100, Height and Length of Remaining Highwalls*

In response to the required amendment previously codified at 30 CFR 944.16(b) (September 17, 1993, 58 FR 48600), Utah proposed to revise existing Utah Admin. R. 645–301–553.651 by recodifying it as Utah Admin. R. 645–301–553.650.100 and revising it to require that a remaining highwall will not be greater in height or length than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations.

Beacuse proposed Utah Admin. R. 645–301–553.650.100 restricts the height and length of remaining highwalls to those cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations, it is consistent with the replacement criterion for areas with remaining highwalls subject to the AOC provisions at Utah Admin. R. 645–301–553.650.200, and is no less stringent than section 515(b)(3) of SMCRA, which requires mining operations to restore the land to AOC. In addition, Utah Admin. R. 645–301–553.650.100 is in accordance with Utah's proposed rule reorganization.

For these reasons, the Director approves proposed Utah Admin. R. 645–301–553.650.100. The Director also finds that the proposed rule satisfies the required amendment previously codified at 30 CFR 944.16(b).

*14. Utah Admin. R. 645–301–553.650.200, Replacement of Preexisting Cliffs or Similar Natural Premining Features With a Remaining Highwall*

Utah proposed to recodify existing Utah Admin. R. 645–301–553.652 as Utah Admin. R. 645–301–553.650.200 and revise it to require that a highwall may remain only when it replaces a preexisting cliff or similar natural premining feature and resembles the structure, composition, and function of the natural cliff it replaces.

As discussed in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48604–5), the Secretary of the Interior harmonized the inherent contradiction that exists when applying section 515(b)(3) of SMCRA, which requires operators to restore land to AOC with all highwalls eliminated, to specific areas of Utah involving natural benches and steep topography by approving a carefully limited exception in the Utah program to SMCRA's requirement for the complete elimination of all highwalls. Because proposed Utah Admin. R. 645–301–553.650.200 allows highwalls to remain only when they replace preexisting cliffs or similar natural premining features and resemble the structure, composition, and function of the natural cliffs they replace, it is in accordance with the Secretary's approval of Utah's provisions for areas with remaining highwalls subject to the AOC provisions and is no less stringent than section 515(b)(3) of SMCRA, which requires mining operations to restore the land to AOC. In addition, Utah Admin. R. 645–301–553.600.200 is consistent with Utah's proposed rule reorganization. Accordingly, the Director approves Utah's proposed rule.

*15. Utah Admin. R. 645–301–553.651, Applicability Date*

In response to the required amendment previously codified at 30 CFR 944.16(c) (September 17, 1993, 58 FR 48600), Utah proposed to create new Utah Admin. R. 645–301–553.651, which states the following.

> Applicability. Where final backfilling and grading was completed and the phase one bond was released prior to June 2, 1992, no redisturbance of a reclaimed highwall will be required. Highwalls which were approved under R645–301–553.652, the rule commonly referred to as the ''AOC alternative,'' after December 13, 1982 are subject to the retroactive application of current rule R645–301–552.650, providing the subject highwall has not been reclaimed and phase one bond was not released prior to June 2, 1992.

Utah incorporates by reference the provisions of Utah Admin. R. 645–301–55*2*.650. No such citation exists in Utah's rules. For the purposes of the following finding, OSM assumes that the proposed reference is a typographical error and that Utah intended to cite Utah Admin. R. 645–301–55*3*.650.*200*, which is pertinent to the proposed applicability section at Utah Admin. R. 645–301–553.651 and the required amendment previously codified at 30 CFR 944.16(c).

At Utah Admin. R. 645–301–553.651, Utah proposes that the requirements of Utah Admin. R. 645–301–553.650.200 (incorrectly cited by Utah as Utah Admin. R. 645–301–552.650) do not retroactively apply to highwalls which were retained under existing Utah Admin. R. 645–301–553.652 and for which final backfilling and grading was completed and the phase one bond was released prior to June 2, 1992.

Existing Utah Admin. R. 645–301–553.652 provides in part that a highwall may be retained if it is similar in structural composition to the preexisting cliffs ''in the surrounding area.'' As discussed in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48605; finding No.

3), Utah interpreted the quoted phrase to allow the retention of highwalls when no similar natural features existed in the disturbed area prior to mining. By letter dated January 9, 1991, and sent to Utah in accordance with 30 CFR 732.17, OSM notified Utah that this interpretation was not consistent with SMCRA and the Secretary's assumptions in approving the provisions of the Utah program that allow for the incomplete elimination of highwalls for areas with remaining highwalls subject to the AOC provisions.

With respect to the June 2, 1992, date that Utah uses in proposed Utah Admin. R. 645–301–553.651, the Director, as also discussed in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48605–6; finding No. 3(C)(3)(b)), found that an applicability date of December 13, 1982, rather than June 2, 1992, is mandated by SMCRA. In that discussion, the Director made clear that the replacement criterion, now codified at Utah Admin. R. 645–301–553.650.200, has an applicability date of December 13, 1982, and *must* apply to *any* highwall retained pursuant to the AOC provisions of the Utah program at Utah Admin. R. 645–301–553.650 regardless of the date that the highwall was created.

For these reasons, the Director finds that proposed Utah Admin. R. 645–301–553.651 is less stringent than section 515 of SMCRA, not in accordance with the Secretary's assumptions in approving the provisions of the Utah program that allow for the incomplete elimination of highwalls for areas with remaining highwalls subject to the AOC provisions, and not in accordance with the Director's previous finding in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48605–6; finding No. 3(C)(3)(b)). Therefore, the Director does not approve Utah's proposed rule at Utah Admin. R. 645–301–553.651. In addition, the Director will continue to interpret the replacement criterion at Utah Admin. R. 645–301–553.650.200 as having an applicability date of December 13, 1982, and as applying to any highwall retained pursuant to the AOC provisions of the Utah program at Utah Admin. R. 645–301–553.650. The Director is not requiring Utah, as was done previously at 30 CFR 944.16(c), to revise its rules to require that the replacement criterion provision at Utah Admin. R. 645–301–553.650.200 has an applicability date of December 13, 1982, and applies to any highwall retained pursuant to the AOC provisions of the Utah program. OSM has decided that it is not necessary to require Utah to so revise its rules because OSM has already made clear, in the September 17, 1993, final rule **Federal Register** notice (58 FR 48600, 48605–6; finding No. 3(C)(3)(b)), and again in this finding, that the Director will interpret the Utah replacement criterion at Utah Admin. R. 645–301–553.650.200 as having an applicability date of December 13, 1982, and as applying to any highwall retained pursuant to the AOC provisions of the Utah program at Utah Admin. R. 645–301–553.650. OSM will utilize this interpretation of the replacement criterion at Utah Admin. R. 645–301–553.650.200 in its oversight of the Utah program, regardless of whether or not Utah's program explicitly addresses the applicability of the replacement criterion.

## 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, but none were received.

### *2. Federal Agency Comments*

Pursuant to 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 December 15, 1993, and August 1 and December 9, 1994, that the changes to the Utah program were satisfactory (administrative record Nos. UT–884, UT–958, and UT–998).

The U.S. Fish and Wildlife Service responded on December 16, 1993, that it found nothing of significant concern and on August 9, 1994, that it had no further comments (administrative record Nos. UT–885 and UT–961).

The U.S. Forest Service (USFS) responded on December 27, 1993, that ''the State of Utah uses a safety factor of 1.3 for long-term stability of highwalls whereas the Forest Service requires a safety factor of 1.5'' (administrative record No. UT–886).

Utah Admin. R. 645–301–553.130, in pertinent part, requires that disturbed areas will be backfilled and graded to achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a long-term static safety factor of 1.3 and prevent slides. In addition, Utah Admin. R. 645–301–553.530 requires, in pertinent part, that a Utah operator will demonstrate, to the satisfaction of the Division, that a remaining highwall must achieve a minimum long-term static safety factor of 1.3 and prevent slides.

As discussed in finding No. 8, the Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) require that disturbed areas shall be backfilled and graded to achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a long-term static safety factor of 1.3 and prevent slides. Therefore, Utah's use of a 1.3 static safety factor for long-term stability of highwalls is ''in accordance with and no less effective than'' the Federal backfilling and grading standards set forth in title 30 of the Code of Federal Regulations. Because the Federal regulations at 30 CFR 730.5(b) only require that a State's laws be ''in accordance with'' and ''no less effective than'' the Federal regulations in meeting the requirements of SMCRA, the Director does not have the authority to require standards in excess of the Federal regulations that implement SMCRA. One this basis, the Director does not require Utah to revise its program in response to USFS's comment. However, if USFS has a 1.5 static safety factor that applies to highwalls on land under USFS's jurisdiction, this does not preclude USFS from enforcing this standard on such highwalls.

The Mine Safety and Health Administration responded on June 20, 1994, and January 12, 1995, that the proposed amendment did not appear to conflict with the requirements of 30 CFR, which includes its safety regulations (administrative record Nos. UT–940 and UT–1006).

The U.S. Bureau of Mines responded on July 18 and December 6, 1994, by telephone conversation, that it had no comments on the proposed amendment (administrative record Nos. UT–948 and UT–995).

### *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 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record Nos. UT–876, UT–946, and UT–993). It responded on December 9, 1993, July 19, 1994, and December 22, 1994, that it had no comments on the proposed amendment and did not believe that there would be any impacts to water quality standards promulgated under the Clean Water Act (administrative record Nos. UT–880, UT–954, and UT–1000).

*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–876, UT–946, and UT–993). the SHPO did not respond to OSM's request.

**V. Director's Decision**

Based on the above findings, the Director approves, with an exception and additional requirements, Utah's proposed amendment as submitted on November 12, 1993, and as revised on June 28 and November 3, 1994.

The Director does not approve, as discussed in: finding No. 15, Utah Admin. R. 645–301–553.651, concerning the applicability date of Utah's replacement criterion for areas with remaining highwalls subject to the AOC provisions at Utah Admin. R. 645–301–553.650.200.

The Director approves, as discussed in: finding No. 1, Utah Admin. R. 645–301–553, concerning contemporaneous reclamation requirements for backfilling and grading; Utah Admin. R. 645–301–553.130, concerning the requirements for a 1.3 static safety factor; Utah Admin. R. 645–301–553.150, concerning the requirements for post mining land use; Utah Admin. R. 645–301–553.200, concerning the backfilling and grading requirements for spoil and waste; Utah Admin. R. 645–301–553.210, concerning the general requirements for disposal of excess spoil; Utah Admin. R. 645–301–553.220, concerning the requirements for placement of spoil; Utah Admin. R. 645–301–553.252, concerning the requirements for final grading of refuse piles and coal mine waste; Utah Admin. R. 645–301–553.300, concerning the requirements for covering of exposed coal seams; Utah Admin. R. 645–301–553.510, concerning remaining operations on PMA's, operations on CMA's, and operations on areas with remaining highwalls subject to AOC provisions; Utah Admin. R. 645–301–553.540, concerning the requirements for spoil placement; Utah Admin. R. 645–301–553.650.300, concerning the requirement for modifications to retained highwalls restoring cliff-type habitats required by premining flora and fauna; Utah Admin. R. 645–301–553.650.400, concerning the requirement for compatibility of retained highwalls with the approved postmining land use and visual attributes of the area; and Utah Admin. R. 645–301–553.650.500, concerning the exemption from obtaining a variance from AOC requirements; finding No. 2, Utah Admin. R. 645–301–553.100, concerning the section entitled ''disturbed areas,'' and Utah Admin. R. 645–301–553.230, concerning the general requirements for backfilling and grading; finding No. 3, Utah Admin. R. 645–100–200, concerning the definition of ''Continuously Mined Areas;'' finding No. 6, Utah Admin. R. 645–301–553.500, concerning PMA's, CMA's, and areas with remaining highwalls subject to AOC provisions; finding No. 7, Utah Admin. R. 634–301–553.520, concerning backfilling and grading of remaining highwalls; finding No. 8, Utah Admin. R. 645–301–553.530, concerning stability criteria for backfilling and grading and resulting in partial removal of the required amendment previously codified at 30 CFR 944.16(d)(1) and total removal of the required amendments previously codified at 30 CFR 944.16(d) (2) and (3); finding No. 9, Utah Admin. R. 634–301–553.600, concerning Utah's newly-created section title for its reorganized rule requirements for PMA's and CMA's; finding No. 10, Utah Admin. R. 634–301–553.610, concerning exceptions for PMA's and CMA's from the requirement for complete highwall elimination; finding No. 11, Utah Admin. R. 634–301–553.611 and .612, concerning backfilling and grading of reasonably available spoil; finding No. 12, Utah Admin. R. 645–301–553.650, concerning highwall management under the AOC provisions and removal of the required amendment previously codified at 30 CFR 944.16(a); finding No. 13, Utah Admin. R. 645–301–553.650.100, concerning the height and length of remaining highwalls and removal of the required amendment previously codified at 30 CFR 944.16(b); and finding No. 14, Utah Admin. R. 645–301–553.650.200, concerning the replacement of preexisting cliffs or similar natural premining features with a remaining highwall.

With the requirement that Utah further revise its rules, the Director approves, as discussed in: finding No. 4, Utah Admin. R. 645–301–553.110, concerning exceptions to the requirement that disturbed areas achieve AOC; and finding No. 5, Utah Admin. R. 534–301–553.120, concerning backfilling and grading of spoil and waste.

The Director approves, with one exception, the rules as proposed by Utah with the provision that they be fully promulgated in identical form to the rules 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.

*Effect of Director's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Utah program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Utah of only such provisions.

**VI. 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 had 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 (42 U.S.C. 4332(2)(C)).

*4. Paperwork Reduction Act*

The 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 with 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.

**VII. List of Subjects in 30 CFR 944**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 1995.

**Richard J. Seibel,**

*Regional Director, Western Regional Coordinating 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 (ee) to read as follows:

**§ 944.15 Approval of amendments to the Utah regulatory program.**

* * * * *

(ee) With the exception of Utah Admin. R. 645–301–553.651, concerning the applicability date of Utah's replacement criterion for areas with remaining highwalls subject to the AOC provisions at Utah Admin. R. 645–301–553.650.200 (formerly the ''AOC alternative''), the following rules, as submitted to OSM on November 12, 1993, and as revised on June 28 and November 3, 1994, are approved effective May 30, 1995.

| | |
|---|---|
| 645–100–200 | Definition of ''Continuously Mined Areas'' (CMA's). |
| 645–301–553 | Contemporaneous Reclamation Requirements for Backfilling and Grading. |
| 645–301–553.100 | Section Entitled ''Disturbed Areas.'' |
| 645–301–553.110 | Exceptions to the Requirement That Disturbed Areas Achieve Approximate Original Contour (AOC). |
| 645–301–553.120 | Backfilling and Grading of Spoil and Waste. |
| 645–301–553.130 | Requirements for a 1.3 Static Safety Factor. |
| 645–301–553.150 | Requirements for Postmining Land Use. |
| 645–301–553.200 | Backfilling and Grading Requirements for Spoil and Waste. |
| 645–301–553.210 | General Requirements for Disposal of Excess Spoil. |
| 645–301–553.220 | Requirements for Placement of Spoil. |
| 645–301–553.230 | General Requirements for Backfilling and Grading. |
| 645–301–553.252 | Final Grading of Refuse Piles and Coal Mine Waste. |
| 645–301–553.300 | Covering of Exposed Coal Seams. |
| 645–301–553.500 | Previously Mined Area's (PMA's), CMA's, and Areas With Remaining Highwalls Subject to AOC Provisions. |
| 645–301–553.510 | Remining Operations on PMA's, Operations on CMA's, and Operations on Areas With Remaining Highwalls Subject to AOC Provisions. |
| 645–301–553.520 | Backfilling and Grading of Remaining Highwalls. |
| 645–301–553.530 | Stability Criteria for Backfilling and Grading. |
| 645–301–553.540 | Spoil Placement. |
| 645–301–553.600 | Newly-Created Section Title for Utah's Reorganized Rule Requirements for PMA's and CMA's. |
| 645–301–553.610 | Exceptions for PMA's and CMA's From the Requirement for Complete Highwall Elimination. |
| 645–301–553.611 and .612 | Backfilling and Grading of Reasonably Available Spoil. |
| 645–301–553.650 | Highwall Management Under the AOC Provisions. |
| 645–301–553.650.100 | Height and Length Requirements of Remaining Highwalls. |
| 645–301–553.650.200 | Replacement of Preexisting Cliffs or Similar Natural Premining Features With a Remaining Highwall. |
| 645–301–553.650.300 | Modifications to Retained Highwalls Restoring Cliff-Type Habitats Required by Premining Flora and Fauna. |
| 645–301–553.650.400 | Compatibility of Retained Highwalls With the Approved Postmining Land Use and Visual Attributes of the Area. |
| 645–301–553.650.500 | Exemption from Obtaining a Variance From AOC Requirements. |

3. Section 944.16 is amended by adding paragraphs (c) and (d) to read as follows:

**§ 944.16 Required program amendments.**

* * * * *

(c) By July 31, 1995, Utah shall revise Utah Admin. R. 645–301–553.110, or otherwise modify its program, by correcting the cross-referenced provisions in the phrase ''R645–301–500 through R645–301–540,'' regarding previously mined area's continuously mined area's, and areas subject to the AOC provisions, to read ''R645–301–553.500 through R645–301–553.540.''

(d) By July 31, 1995, Utah shall revise Utah Admin. R. 645–301–553–120, or otherwise modify its program, by correcting the cross-referenced provisions in the phrase ''R645–301–553.500 through R645–301–540,'' regarding previously mined area's, continuously mined area's, and areas

subject to the AOC provisions, to read ''R645–301–553.500 through R645–301–553.540'' and correcting the cross-referenced provisions in the phrase ''R645–301–553.650 through R645–301–553.653'' to read ''R645–301–553.650 through R645–301–553.651.''

[FR Doc. 95–13156 Filed 5–26–95; 8:45 am]
BILLING CODE 4310–05–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 216

### Military Recruiting at Institutions of Higher Education

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim rule.

**SUMMARY:** The Department of Defense adopts this interim rule to implement the ''National Defense Authorization Act for Fiscal Year 1995. It updates policy, procedures, and responsibilities for identifying and taking action against any institution of higher education that has a policy of denying, or, that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: Entry to campuses, access to students on campuses, or access to student directory information. No funds available to the Department of Defense (DoD) may be provided by grant or contract to any such institution. The new law allows no basis for waivers.

**DATES:** This interim rule is effective on May 30, 1995. Written comments on this rule must be received by July 31, 1995.

**ADDRESSES:** Forward comments to the Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, 4000 Defense Pentagon, Washington, DC 20301–4000.

**FOR FURTHER INFORMATION CONTACT:** Ronald G. Liveris, (703) 697–9268.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

This interim rule is not a ''significant regulatory action,'' as defined by Executive Order 12866. The Department of Defense believes that it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising our of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

### Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This interim rule will not have a significant adverse impact on a substantial number of small entities.

### Paperwork Reduction Act of 1980 (44 U.S.C., Chapter 35)

This interim rule will not impose any additional reporting or record keeping requirements under the Paperwork Reduction Act.

### List of Subjects in 32 CFR Part 216

Armed Forces, Colleges and universities, Recruiting personnel.

Accordingly, 32 CFR part 216 is revised to read as follows:

## PART 216—MILITARY RECRUITING AT INSTITUTIONS OF HIGHER EDUCATION

Sec.


**Authority:** 10 U.S.C. 503 note.

#### § 216.1 Purpose.

This part implements section 558, The National Defense Authorization Act for Fiscal Year 1995, Pub. L. 103–337 (See 10 U.S.C. section 503 note). It updates policy and responsibilities for identifying and taking action regarding institutions of higher education that either have a policy of denying or effectively bar military recruiting personnel from entry to their campuses, or from access to student directory information.

#### § 216.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified and Specified Combatant Commands, the Uniformed Services University of Health Sciences (USUHS), the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as ''the DoD Components''). The term ''Military Services,'' as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

#### § 216.3 Definitions.

(a) *Directory information.* Referring to a student means the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by student.

(b) *Institution of higher education.* A domestic college, university, or sub-element of a university providing post-secondary school courses of study, including foreign campuses of such institutions. This includes junior colleges, community colleges, and institutions providing courses leading to undergraduate and post-graduate degrees. The term ''institution of higher education'' does not include entities that operate exclusively outside the United States, its territories, and possessions.

(c) *Student.* An individual who is 17 years of age or older and enrolled in an institution of higher education.

#### § 216.4 Policy.

(a) Under section 558 of the National Defense Authorization Act for Fiscal Year 1995, no funds available to the Department of Defense (DoD) may be provided by grant or contract to any institution of higher education that either has a policy of denying or that effectively prevents the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses or access to students on campuses or access to directory information pertaining to students. This prohibition on use of DoD funds applies only to sub-elements of an institution of higher education that are determined to have such a policy or practice.

(b) An evaluation to determine whether an institution of higher education has a policy of denying, or is effectively preventing, the Secretary of Defense from obtaining entry to the campuses, access to students on campuses, or access to student directory information shall be undertaken when:

(1) Military recruiting personnel cannot obtain permission to recruit on the premises of the institution or when they are refused directory information. Military recruiting personnel shall accommodate an institution's reasonable preferences as to times and places for scheduling on-campus recruiting, provided that any such restrictions are not based on the policies or practices of the Department of Defense and the Military Services are provided entry to the campus and access to students on campus and directory information; or

(2) The institution is unwilling to declare in writing as a prerequisite to an

education and training award that the institution does not have a policy of denying, and that it does not effectively prevent, the Secretary of Defense from obtaining for military recruiting purposes entry to campuses or access to students on campuses, or access to student directory information.

(3) The institution does not accept terms or conditions of a DoD contract or grant specified under § 216.5(b)(2).

(c) A determination that military recruiting personnel are denied access will not be made when the institution:

(1) Excludes all employers from recruiting on the premises of the institution.

(2) Permits employers to recruit on the premises of the institution only in response to an expression of student interest, and the institution:

(i) Provides the Military Services with the same opportunities to inform the students of military recruiting activities as are available to other employers.

(ii) Certifies that too few students have expressed an interest to warrant accommodating military recruiters, applying the same criteria that are applicable to other employers.

(3) In the case of not providing any directory information, certifies that this information is not collected by the institution.

(4) In the case of not providing directory information for specific students, certifies that each student concerned (or his or her parent, in the case of a 17-year old) has formally requested the institution to withhold providing this information from military recruiting personnel for military recruiting purposes.

**§ 216.5 Responsibilities.**

(a) The Assistant Secretary of Defense for Force Management Policy, under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Not later than 30 days after receipt of the name(s) of institutions of higher education under §§ 216.5(d)(2) and 216.5(e)(1):

(i) Make a final determination about the eligibility of each such institution to receive funds available to the Department of Defense by grant or contract under section 558 of the National Defense Authorization Act for Fiscal Year 1995 and this part.

(ii) Notify each institution determined under § 216.5(a)(1)(i), that it is ineligible to receive DoD funds under section 558 and this part. This notification shall reflect the basis of this determination.

(iii) Disseminate the names of institutions of higher education identified under § 215.5(a)(1)(i), to all DoD Components and to the General Services Administration (GSA) for inclusion in the Federal list of parties excluded from Federal procurement or nonprocurement programs.

(iv) Inform each institution identified under § 216.5(d)(2), or § 216.5(e)(1), that its eligibility to receive DoD funds may be restored upon the institution providing sufficient new information to enable the Assistant Secretary of Defense for Force Management Policy (ASD(FMP)) to determine that the institution provides entry to its campus(es), access to students on the campus(es), and access to directory information on students.

(2) Not later than 45 days after receipt of an institution's request to restore its eligibility:

(i) Determine whether the institution is qualified to receive DoD funds under section 558 of the National Defense Authorization Act for Fiscal Year 1995 and this part.

(ii) Inform the institution of this determination.

(iii) Provide the DoD Components and GSA with the name of this institution if its eligibility has been restored.

(3) Provide policy and procedures to:

(i) Cease education and training awards of DoD funds (other than those made by procurement grant or contract subject to § 216.5(b)(1)) to institutions identified under § 216.5(a)(1)(i).

(ii) Identify institutions unwilling to declare in writing, as a prerequisite to such an award of DoD funds for education and training, that the institution does not have a policy of denying and that it does not effectively prevent the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses, access to students on campuses, or access to student directory information.

(b) The Under Secretary of Defense for Acquisition and Technology shall establish policy and procedures to:

(1) Deny DoD grant and contract awards to all institutions identified under § 216.5 (a)(1)(i).

(2) Include appropriate terms or conditions in DoD grants and contracts awarded to institutions of higher education, to make payments under such awards contingent upon the institution's not being one so identified.

(c) The Under Secretary of Defense (Comptroller)/Chief Financial Officer shall implement procedures to stop payment of DoD funds through contracts, grants, and other applicable agreements made by the DoD or other Federal Agencies to applicable institutions identified under § 216.5(a)(1)(i).

(d) The Secretaries of the Military Departments shall:

(1) Identify institutions that, by policy or practice, deny military recruiting personnel entry to the campus(es) of those institutions, access to students, or access to student directory information. When repeated requests to schedule recruiting visits or to obtain student directory information are unsuccessful, the Military Service concerned shall seek written confirmation of the institution's present policy from the head of the institution through a letter of inquiry. The sample letter in enclosure 1 shall be followed as closely as possible. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the institution shall be documented.

(2) Evaluate the responses to the letter of inquiry and of such other evidence obtained in accordance with this Part as may be appropriate and submit to the ASD(FMP) the names and addresses of institutions of higher education that are recommended to be declared ineligible to receive funds available to the Department of Defense under section 558 of the National Defense Authorization Act for Fiscal Year 1995 and this Part. Full documentation shall be furnished to the ASD(FMP) for each such institution, including the institution's formal response to the letter of inquiry, or oral response or evidence showing attempts to obtain written confirmation or an oral statement of the institution's policies.

(e) The Heads of the DoD Components shall:

(1) Provide the ASD(FMP) with the names and addresses of institutions:

(i) Identified as a result of implementing policies and procedures promulgated under § 216.5(a)(3)(ii).

(ii) that do not accept terms or conditions of a DoD grant or contract specified under § 215.5(b)(2).

(2) Take immediate action to deny DoD funds to institutions identified under § 216.5(a)(1)(i) and to restore eligibility of institutions identified under § 216.5(a)(2)(i).

**Appendix A to Part 216—Sample Letter of Inquiry**

Dr. John Doe
President
XYZ College
Anywhere, USA 12345–0123

Dear Dr. Doe: I understand that military recruiting personnel are unable to recruit on the campus of XYZ College and have been refused directory information on XYZ College students for military recruiting by official policy of the College. Section 558 of Public Law 103–337, the National Defense Authorization Act for Fiscal Year 1995, October 5, 1994, which is codified at 10 U.S.C. section 503 note, prohibits grant and

contract awards of DoD funds to any institution of higher education that has a policy of denying, or that effectively denies, military recruiting personnel entry to campuses, access to students on campuses, or access to directory information on students. DoD Directive 1322.13, ''Military Recruiting at Institutions of Higher Education,'' codified at 32 CFR part 216, implements section 558. A copy of section 558 and DoD Directive 1322.13 is enclosed.

Under DoD Directive 1322.13, this letter provides you an opportunity to clarify your institution's policy on military recruiting on the campus of XYZ College. In this regard, I request the official written policy of the institution about visits of civilian employers (public or private) and military recruiting personnel to the campus for recruiting college students, and access to directory information on students.

Based on this information, a determination shall be made by the Assistant Secretary of Defense for Force Management Policy as to your institution's eligibility to receive DoD funds by grant or contract. Should it be determined that XYZ College is not qualified to receive such funds, all current programs requiring payment to XYZ College shall be stopped, and it shall be ineligible to receive future payments of DoD funds through grants, contracts, and other applicable agreements.

I regret that this action may have to be taken. Successful recruiting requires that the Department's recruiters have reasonable access to students on the campuses of colleges and universities, and at the same time to have effective relationships with the officials and student bodies of these institutions. I hope it will be possible for military recruiters to schedule recruiting visits at XYZ College in the near future. I am available to answer any questions.

Sincerely,

Enclosures

Dated: May 22, 1995.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13176 Filed 5–26–95; 8:45 am]

**BILLING CODE 5000–04–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 9

**[FRL–5211–8]**

### OMB Approval Numbers Under the Paperwork Reduction Act

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Technical amendment.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table in 40 CFR part 9 that displays the Office of Management and Budget (OMB) control numbers issued under the PRA. This technical amendment amends the table of OMB control numbers to include the OMB control number for the information collection requirements in the rule entitled ''Mandatory Patent Licenses Under Section 308 of the Clean Air Act.''

**EFFECTIVE DATE:** This final rule is effective June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Eagles, Office of Policy Analysis and Review (Mail Code 6103), Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–5585.

**SUPPLEMENTARY INFORMATION:** EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various EPA regulations. Today's amendment updates the table to display accurately the information requirements promulgated under the rule entitled ''Mandatory Patent Licenses Under Section 308 of the Clean Air Act'' which appeared in the **Federal Register** on December 30, 1994 (59 FR 67636–9). The affected regulation is codified at 40 CFR part 95.

EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations. The table lists the CFR section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control numbers and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

A final rule entitled ''Mandatory Patent Licenses Under Section 308 of the Clean Air Act'' was published in the **Federal Register** on December 30, 1994. Notice of the ICR for this rule was previously published for comment on August 29, 1994 (59 FR 44392). OMB approved the ICR on October 3, 1994. The OMB approval of the ICR and the associated OMB control number were published in the **Federal Register** on December 30, 1994 (59 FR 67637). As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend the table of OMB control numbers without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

**List of Subjects in 40 CFR Part 9**

Reporting and recordkeeping requirements.

Dated: May 19, 1995.

**Carol M. Browner,**

*Administrator.*

For the reasons set out in the preamble, chapter 1, title 40 of the Code of Federal Regulations, is amended as follows:

**PART 9—[AMENDED]**

In part 9:

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

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6,300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

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

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

* * * * *

| 40 CFR citation | OMB control No. |
|---|---|
| * * * * * | |
| Mandatory Patent Licenses: | |
| * * * * * | |
| 95.2 ..... | 2060–0307 |
| * * * * * | |

[FR Doc. 95–13151 Filed 5–26–95; 8:45 am]

**BILLING CODE 6560–50–M**

### 40 CFR Part 51

**[AD–FRL–5211–6]**

**RIN 2060–AE33**

### Preparation, Adoption, and Submittal of State Implementation Plans; Test Method 205, Appendix M

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The purpose of this rule is to add a test method which would be used to verify the performance and accuracy of gas dilution systems during a field test. The test method is entitled,

''Verification of Gas Dilution Systems for Field Instrument Calibrations,'' and will be added to 40 CFR part 51, appendix M, as Test Method 205. This method will allow the facility greater flexibility while assuring the Administrator of the quality of the calibration of the field analyzers.

**EFFECTIVE DATE:** This method is effective May 30, 1995.

**ADDRESSES:** *Background Information Document.* The background information document (BID) for the promulgated test method may be obtained from: Air Docket Section (MC–6102), Attention: Docket Number A–93–36, U.S. Environmental Protection Agency, Room M–1500, First Floor, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The BID contains a summary of all the public comments made on the proposed test method and the Administrator's response to the comments.

*Docket.* Docket No. A–93–36, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (formerly known as the Air Docket), Room M–1500, First Floor, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Rima N. Dishakjian, Source Characterization Group A (MD–19), Emissions, Modeling and Analysis Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0443.

**SUPPLEMENTARY INFORMATION:**

## I. The Rulemaking

### *A. Summary of Proposed Method*

A verification procedure for gas dilution systems has been proposed. Gas dilution systems allow the user to dilute a high level certified gaseous standard to the concentration levels needed for multi-point calibration. The instrumental test methods in 40 CFR part 60, appendix A (e.g., Methods 3A, 6C, 7E, 10, 15, 16, 20, 25A, and 25B) require on-site, multi-point calibration using gases of known concentrations. An extensive field test can require the tester to transport dozens of high pressure gas cylinders to a test site. If a gas dilution system were available, the number of gas cylinders to be transported to the test site would be greatly reduced. This procedure provides a mechanism for the tester to avoid the cost and risk associated with transport of multiple gas cylinders, while also providing assurances to the on-site Administrator that the calibration gases produced by the gas dilution system will be precise and accurate.

### *B. Comments on the Proposed Method*

Comments on the proposed method were received from three commenters; two commenters are vendors of instruments, while the other commenter has conducted studies on gas dilution instruments in the past. A detailed discussion of these comments and responses can be found in the promulgation BID, which is referred to in the ADDRESSES section of this preamble. Many of the comments dealt with the wording used in the proposed method: two commenters thought the specific mention of gas dilution systems utilizing mass flow controllers implied an Agency endorsement of such systems. Although the original wording actually set more stringent testing requirements for mass flow controller systems and thus was not an endorsement of such systems, the wording of the method has been modified to make it more generic. Another commenter stated that not enough evaluation has been conducted on gas dilution systems' performance capabilities. While the Agency agrees that a large body of data is not available for all the various gas dilution systems currently available, the Agency believes the performance-based format of the method and the stringent requirements of the method will insure that any gas dilution system being used will be precise and accurate for the purposes of the field test. Since the performance test in the method must be conducted during each field test, the gas dilution system's performance will be documented for each set of compliance test data.

## II. Administrative Requirements

### *A. Docket*

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are to: (1) allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) serve as the record in case of judicial review except for interagency review materials [Section 307(d)(7)(A)].

### *B. Administrative Designation and Regulatory Analysis*

Under Executive Order 12866 (58 FR 51735, October 4, 1993)), the EPA is required to judge whether a regulation is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order to prepare a regulatory impact analysis (RIA). The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not ''significant'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

### *C. Regulatory Flexibility Act Compliance*

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because no additional costs will be incurred.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

### List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 22, 1995.

**Carol M. Browner,**

*Administrator.*

The EPA proposes to amend title 40, chapter I, part 51 of the Code of Federal Regulations as follows:

## PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

**Authority:** Section 110 of the Clean Air Act as amended. 42 U.S.C. 7410.

2. Appendix M, Table of Contents is amended by adding an entry to read as follows:

Method 205—Verification of Gas Dilution Systems for Field Instrument Calibrations.

3. By adding Method 205 to appendix M to read as follows:

### Method 205—Verification of Gas Dilution Systems for Field Instrument Calibrations

### 1. Introduction

*1.1 Applicability.* A gas dilution system can provide known values of calibration gases through controlled dilution of high-level calibration gases with an appropriate dilution gas. The instrumental test methods in 40 CFR part 60—e.g., Methods 3A, 6C, 7E, 10, 15, 16, 20, 25A and 25B—require on-site, multi-point calibration using gases of known concentrations. A gas dilution system that produces known low-level calibration gases from high-level calibration gases, with a degree of confidence similar to that for Protocol [1] gases, may be used for compliance tests in lieu of multiple calibration gases when the gas dilution system is demonstrated to meet the requirements of this method. The Administrator may also use a gas dilution system in order to produce a wide range of Cylinder Gas Audit concentrations when conducting performance specifications according to appendix F, 40 CFR part 60. As long as the acceptance criteria of this method are met, this method is applicable to gas dilution systems using any type of dilution technology, not solely the ones mentioned in this method.

*1.2 Principle.* The gas dilution system shall be evaluated on one analyzer once during each field test. A precalibrated analyzer is chosen, at the discretion of the source owner or operator, to demonstrate that the gas dilution system produces predictable gas concentrations spanning a range of concentrations. After meeting the requirements of this method, the remaining analyzers may be calibrated with the dilution system in accordance to the requirements of the applicable method for the duration of the field test. In Methods 15 and 16, 40 CFR part 60, appendix A, reactive compounds may be lost in the gas dilution system. Also, in Methods 25A and 25B, 40 CFR part 60, appendix A, calibration with target compounds other than propane is allowed. In these cases, a laboratory evaluation is required once per year in order to assure the Administrator that the system will dilute these reactive gases without significant loss.

**Note:** The laboratory evaluation is required only if the source owner or operator plans to utilize the dilution system to prepare gases mentioned above as being reactive.

### 2. Specifications

*2.1 Gas Dilution System.* The gas dilution system shall produce calibration gases whose measured values are within ±2 percent of the predicted values. The predicted values are calculated based on the certified concentration of the supply gas (Protocol gases, when available, are recommended for their accuracy) and the gas flow rates (or dilution ratios) through the gas dilution system.

2.1.1 The gas dilution system shall be recalibrated once per calendar year using NIST-traceable primary flow standards with an uncertainty ≤0.25 percent. A label shall be affixed at all times to the gas dilution system listing the date of the most recent calibration, the due date for the next calibration, and the person or manufacturer who carried out the calibration. Follow the manufacturer's instructions for the operation and use of the gas dilution system. A copy of the manufacturer's instructions for the operation of the instrument, as well as the most recent recalibration documentation shall be made available for the Administrator's inspection upon request.

2.1.2 Some manufacturers of mass flow controllers recommend that flow rates below 10 percent of flow controller capacity be avoided; check for this recommendation and follow the manufacturer's instructions. One study has indicated that silicone oil from a positive displacement pump produces an interference in $SO_2$ analyzers utilizing ultraviolet fluorescence; follow laboratory procedures similar to those outlined in Section 3.1 in order to demonstrate the significance of any resulting effect on instrument performance.

*2.2 High-Level Supply Gas.* An EPA Protocol calibration gas is recommended, due to its accuracy, as the high-level supply gas.

*2.3 Mid-Level Supply Gas.* An EPA Protocol gas shall be used as an independent check of the dilution system. The concentration of the mid-level supply gas shall be within 10 percent of one of the dilution levels tested in Section 3.2.

### 3. Performance Tests

*3.1 Laboratory Evaluation (Optional).* If the gas dilution system is to be used to formulate calibration gases with reactive compounds (Test Methods 15, 16, and 25A/25B (only if using a calibration gas other than propane during the field test) in 40 CFR part 60, appendix A), a laboratory certification must be conducted once per calendar year for each reactive compound to be diluted. In the laboratory, carry out the procedures in Section 3.2 on the analyzer required in each respective test method to be laboratory certified (15, 16, or 25A and 25B for compounds other than propane). For each compound in which the gas dilution system meets the requirements in Section 3.2, the source must provide the laboratory certification data for the field test and in the test report.

*3.2 Field Evaluation (Required).* The gas dilution system shall be evaluated at the test site with an analyzer or monitor chosen by the source owner or operator. It is recommended that the source owner or operator choose a precalibrated instrument with a high level of precision and accuracy for the purposes of this test. This method is not meant to replace the calibration requirements of test methods. In addition to the requirements in this method, all the calibration requirements of the applicable test method must also be met.

3.2.1 Prepare the gas dilution system according to the manufacturer's instructions. Using the high-level supply gas, prepare, at a minimum, two dilutions within the range of each dilution device utilized in the dilution system (unless, as in critical orifice systems, each dilution device is used to make only one dilution; in that case, prepare one dilution for each dilution device). Dilution device in this method refers to each mass flow controller, critical orifice, capillary tube, positive displacement pump, or any other device which is used to achieve gas dilution.

3.2.2 Calculate the predicted concentration for each of the dilutions based on the flow rates through the gas dilution system (or the dilution ratios) and the certified concentration of the high-level supply gas.

3.2.3 Introduce each of the dilutions from Section 3.2.1 into the analyzer or monitor one at a time and determine the instrument response for each of the dilutions.

3.2.4 Repeat the procedure in Section 3.2.3 two times, i.e., until three injections are made at each dilution level. Calculate the average instrument response for each triplicate injection at each dilution level. No single injection shall differ by more than ±2 percent from the average instrument response for that dilution.

3.2.5 For each level of dilution, calculate the difference between the average concentration output recorded by the analyzer and the predicted concentration calculated in Section 3.2.2. The average concentration output from the analyzer shall be within ±2 percent of the predicted value.

3.2.6 Introduce the mid-level supply gas directly into the analyzer, bypassing the gas dilution system. Repeat the procedure twice more, for a total of three mid-level supply gas injections. Calculate the average analyzer output concentration for the mid-level supply gas. The difference between the certified concentration of the mid-level supply gas and the average instrument response shall be within ±2 percent.

3.3 If the gas dilution system meets the criteria listed in Section 3.2, the gas dilution system may be used throughout that field test. If the gas dilution system fails any of the criteria listed in Section 3.2, and the tester corrects the problem with the gas dilution system, the procedure in Section 3.2 must be repeated in its entirety and all the criteria in Section 3.2 must be met in order for the gas dilution system to be utilized in the test.

**4. References**

1. ''EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,'' EPA–600/R93/224, Revised September 1993.

[FR Doc. 95–13152 Filed 5–26–95; 8:45 am]
BILLING CODE 6560–50–P

## 40 CFR Part 52

**[CO9–3–5603; FRL–5201–9]**

## Approval and Promulgation of Air Quality Implementation Plans; Colorado; Regulation 7

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to the Colorado Ozone State Implementation Plan (SIP) submitted by the Governor on September 27, 1989, and August 30, 1990. The revisions consisted of amendments to Regulation No. 7, ''Regulation To Control Emissions of Volatile Organic Compounds.'' In its review of the September 27, 1989 State submittal, EPA identified several areas where the regulation still did not meet EPA requirements. On August 30, 1990, the State submitted additional revisions to Regulation No. 7 to address these deficiencies. This **Federal Register** action applies to both of these submittals. The amendments were made to conform Regulation No. 7 to federal requirements, and to improve the clarity and enforceability of the regulation. EPA's approval will serve to make the revisions federally enforceable and was requested by the State of Colorado.

**EFFECTIVE DATE:** This action will be effective on June 29, 1995.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office:

United States Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Programs Branch (8ART–AP), United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 293–1814.

**SUPPLEMENTARY INFORMATION:** Section 110(a)(2)(H)(i) of the Clean Air Act (CAA), as amended in 1990, provides the State the opportunity to amend its SIP from time to time as may be necessary. The State is utilizing this authority of the CAA to update and revise existing regulations which were promulgated pursuant to section 172 of the pre-amendment Act and are a part of the current SIP. In addition, these submittals are in fulfillment of the RACT requirement of amended section 172.

**I. Background**

On March 3, 1978, EPA designated the Denver-Boulder metropolitan area as nonattainment for the National Ambient Air Quality Standards (NAAQS) for ozone (43 FR 8976). This designation was reaffirmed by EPA on November 6, 1991 (56 FR 56694) pursuant to section 107(d)(1) of the CAA, as amended in 1990. Furthermore, since the Denver-Boulder area had not shown a violation of the ozone standard during the three-year period from January 1, 1987 to December 31, 1989, the Denver-Boulder area was classified as a ''transitional'' ozone nonattainment area under section 185A of the amended Act. In order to meet the Reasonably Available Control Technology (RACT) requirements of the CAA, transitional areas must correct any RACT deficiencies regarding enforceability.

The current Colorado Ozone SIP was approved by EPA in the **Federal Register** on December 12, 1983 (48 FR 55284). The SIP contains Regulation No. 7 (Reg. 7), which applies RACT to stationary sources of Volatile Organic Compounds (VOC). Reg. 7 was adopted to meet the requirements of section 172(b) (2) and (3) of the 1977 CAA (concerning the application of RACT to stationary sources [1].) However, the approved Ozone SIP did not rely on the emissions reduction credit that Reg. 7 would produce in order to demonstrate attainment; rather, the SIP relied only on mobile source controls in order to demonstrate attainment.

During 1987 and 1988, EPA Region VIII conducted a review of Reg. 7 for consistency with the Control Techniques Guidelines documents (CTGs) and regulatory guidance, for enforceability and for clarity. The CTGs, which are guidance documents issued by EPA, set forth measures that are presumptively RACT for specific categories of sources that emit VOCs. A substantial number of deficiencies were identified in Reg. 7. In 1987, EPA published a proposed policy document that included, among other things, an interpretation of the RACT requirements as they applied to VOC nonattainment areas (52 FR 45044, November 24, 1987, Post-87 Policy). On May 25, 1988, EPA published a guidance document entitled ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of the November 24, 1987 **Federal Register** Notice'' (the ''Blue Book''). A review of Reg. 7 against these documents uncovered additional deficiencies in the regulation.

On May 26, 1988, EPA notified the Governor of Colorado that the Carbon Monoxide (CO) SIPs for Colorado Springs and Fort Collins were inadequate to achieve the CO NAAQS. In that letter, EPA also notified the Governor that the Ozone SIP had significant deficiencies in design and implementation, and requested that these deficiencies be remedied. EPA did not make a formal call for a revised Ozone SIP in the May 1988 letter,[2] even though the Denver-Boulder area was,

[1] The requirement to apply RACT to existing stationary sources of VOC emissions was carried forth under the amended Act in section 172(c)(1).

[2] Under the pre-amended Act, EPA had the authority under section 110(a)(2)(H) to issue a ''SIP Call'' requiring a State to correct deficiencies in an existing SIP. Section 110(a)(2)(H) was not modified by the 1990 Amendments. In addition, the amended Act contains new section 110(k)(5) which also provides authority for a SIP Call.

and continues to be, designated nonattainment for ozone. The reason for this decision was that no violations of the ozone NAAQS had been recorded in the nonattainment area for the previous three years. However, EPA indicated that the deficiencies, if uncorrected, could jeopardize the area's ability to obtain eventual redesignation as an attainment area for ozone.

*1. 1989 SIP Revision Submittal*

In a letter dated September 27, 1989, the Governor of Colorado submitted revisions to Reg. 7 to partially address EPA's concerns with the Ozone SIP. A detailed description of the specific revisions to the regulation is contained in the Docket for this **Federal Register** document. Revisions were made to the following sections of Reg. 7:

7.I Applicability
7.II General Provisions
7.III General Requirements for Storage and Transfer of Volatile Organic Compounds
7.IV Storage of Highly Volatile Organic Compounds
7.V Disposal of Volatile Organic Compounds
7.VI Storage and Transfer of Petroleum Liquid
7.VIII Petroleum Processing and Refining
7.IX Surface Coating Operations
7.X Use of Solvents for Degreasing and Cleaning
7.XI Use of Cutback Asphalt
7.XII Control of VOC Emissions from Dry Cleaning Facilities Using Perchloroethylene As a Solvent
7.XIII Graphic Arts
7.XIV Pharmaceutical Synthesis
7.XV Control of Volatile Organic Compound Leaks from Vapor Collection Systems Located At Gasoline Terminals, Bulk Plants, and Gasoline Dispensing Facilities
Appendix A Criteria for Control of Vapors from Gasoline Transfer to Storage Tanks
Appendix B Criteria for Control of Vapors from Gasoline Transfer at Bulk Plants (Vapor Balance System)
Appendix D Test Procedures for Annual Pressure/Vacuum Testing of Gasoline Transport Trucks

In addition, the following new emission sources and appendices were added to Reg. 7:

7.IX.A.7 Fugitive Emission Control
7.IX.N. Flat Wood Paneling Coating
7.IX.O. Manufacture of Pneumatic Rubber Tires
7.XI.D. Coal Tar
Appendix E Emission Limit Conversion Procedure

In a letter dated September 27, 1989, the Governor of Colorado submitted revisions to Reg. 7 to address EPA's concerns with how the State was addressing RACT for major non-CTG sources of VOC. A detailed description of the specific revisions to the regulation is contained in the Docket for this **Federal Register** document. In summary, Section 7.II.C. of Reg. 7 applies this new non-CTG RACT requirement to sources not specifically covered by the regulation as follows:

(a) Sources with actual emissions of 100 tons per year or more of VOCs must apply RACT.

(b) Sources with potential emissions of 100 tons per year or more of VOCs, but with actual emissions of less than 100 tons per year, may avoid having to apply RACT by obtaining a federally enforceable permit to limit production or hours of operation to keep actual emissions below 100 tons per year.

(c) Sources with potential emissions of 100 tons per year or more of VOCs, but with actual emissions of less than 50 tons per year on a 12-month rolling average, may avoid RACT and permit requirements by: (1) Submitting a report each year demonstrating that the 50 tons per year threshold has not been exceeded and (2) maintaining monthly records of VOC usage and emissions to enable the State to verify these reports.

EPA is approving section 7.II.C. of the State's rules for its strengthening effect on the SIP.

*2. 1990 SIP Revision Submittal*

In general, the revised Reg. 7 ( as submitted by the Governor on September 27, 1989) met the CAA requirements, which were interpreted in the CTGs, the Blue Book, and the Post-87 Policy. However, in its review, EPA identified two remaining issues where the regulation was not consistent with EPA guidance: A. The compliance schedule, and B. Clarification of the Graphic Arts definition for potential to emit. These remaining two issues were addressed by the State in its August 30, 1990 submittal.

In a letter dated August 30, 1990, the Governor of Colorado submitted revisions to Reg. 7 to address EPA's remaining concerns with the September 27, 1989 Ozone SIP revision. A detailed description of the additional specific revisions to Reg. 7 is contained in the Docket for this **Federal Register** document. Revisions were made to the following sections of Reg. 7:

7.I Applicability
7.XI Use of Cutback Asphalt
7.XIII Graphic Arts

*A. Compliance Schedule:* Reg. 7 did not contain an explicit deadline for compliance with the revised regulation. In response to EPA comments, the State adopted additional revisions (Section 7.I.B. and 7.I.C.) to Section 7.I. (Applicability) of Reg. 7, requiring all sources to come into compliance with the revised Reg. 7 by October 30, 1991.

*B. Graphic Arts definition:* The Graphic Arts definition of potential to emit, contained in Section 7.XIII.A.2. of Reg. 7, was somewhat unclear. The definition referenced the EPA requirement that potential to emit be determined at maximum capacity before control (per the Appendix D Clarification document), but also included a requirement that potential emissions be based on historical records of solvent and ink consumption (per the previous regulatory guidance document, *Guidance to State and Local Agencies in Preparing Regulations to Control Volatile Organic Compounds from Ten Stationary Source Categories*, September, 1979). As a result, the definition could have been interpreted to require potential to emit to be calculated at both maximum and historical operating rates, which in most cases will be different. The Reg. 7 revisions, submitted by the Governor on August 30, 1990, addressed this concern by not including a reference to the historical records.

*C. Capture Efficiency:* As a final issue, on January 13, 1992, EPA notified the State that, prior to proposing this action, it was necessary to document the State's position with regard to capture efficiency (CE) determination. The CE provision adopted by the State in Section IX.A.5.e of Reg. 7 does address the requirement that testing for CE be performed on a case-by-case basis, and that this testing be consistent with EPA guidance. In a letter dated February 5, 1992, from John Leary, Acting Director, Colorado Air Pollution Control Division, to Douglas Skie, Chief, Air Programs Branch, EPA Region VIII, the State committed to adopt and use all new CE methods as they are developed and promulgated by EPA's rule-making process. In that same letter, the State indicated that until changes are promulgated, the Air Pollution Control Division will use the CE protocols that were published by EPA on June 29, 1990 (55 FR 26814, codified at 40 CFR 52.741(a)(4)(iii) and Appendix B).

Due to additional information received after the adoption of revisions to Reg. 7 in September, 1989, the State reconsidered its regulation of coal tar under Section 7.XI. (Use of Cutback Asphalt). In revisions submitted on August 30, 1990, Section 7.XI.D., covering coal tar, was deleted. Regulation of coal tar is not covered by the CTG for cutback asphalt use; EPA believes that it is not needed to meet the RACT requirement of the CAA.

In this action, EPA is also approving the State's VOC definition as submitted in the 1989 and 1990 revisions to Reg. 7. However, on February 3, 1992, EPA

published a revised definition of volatile organic compounds (57 FR 3941). This definition was further revised on October 5, 1994, (59 FR 50693) and became effective on December 5, 1994. EPA's definition excludes a number of organic compounds from the definition of VOC on the basis that they are of negligible reactivity and do not contribute to tropospheric ozone formation. The State's definition excludes some, but not all, of these compounds. Therefore, the State's definition of VOC provides for the regulation of some compounds which are no longer considered VOCs by EPA. In light of EPA's most recent definition of VOC, EPA will not enforce against sources for failure to control the emission of compounds that are exempt from the federal VOC definition. EPA has informed the Region VIII States of the revised definition of VOC and has requested that future SIP revisions reflect the most recent federal VOC definition.

This action was previously published as a Direct Final Rule on June 26, 1992 (57 FR 28614). This Direct Final Rule was withdrawn on August 12, 1992 (57 FR 36004) as EPA Region VIII received a letter, dated July 16, 1992, from William Owens, Executive Director of the Colorado Petroleum Association (CPA), to Jeff Houk of EPA Region VIII, expressing adverse comments. EPA published a Proposed Rule on November 16, 1994 (59 FR 59189) proposing approval of these revisions to Reg. 7. Comments regarding the November 16, 1994, Proposed Rule were received from Stanley Dempsey Jr. on behalf of the Colorado Association of Commerce and Industry (CACI). These comments, in addition to those received earlier, are hereby addressed in this Final Rule as follows:

*CPA Comment 1:* In its first comment, CPA states that ''EPA was required by the amended Clean Air Act to determine by June 30, 1992, whether the transitional area had attained the NAAQS. EPA failed to issue this determination by the required date. This determination will re-establish the purpose of the SIP and, therefore, should be considered prior to any SIP approval. At a minimum, the SIP approval should be proposed to allow the opportunity for comment based on the required determination of current attainment status.''

*Response to CPA Comment 1:* As indicated in the proposed rule for this action (59 FR 59189, dated November 16, 1994), EPA had previously reviewed the available ambient air quality data. In a letter dated October 22, 1992, from Jack McGraw, EPA Region VIII Acting Regional Administrator, to Governor Roy Romer, EPA advised the State that the Agency had reviewed the ambient air quality data which had been entered by the State into the Aerometric Information and Retrieval System (AIRS) national database. EPA further advised that these data indicated that the Denver-Boulder metropolitan transitional ozone nonattainment area had not violated the ozone NAAQS during the period beginning January 1, 1987, and ending December 31, 1991. EPA's October 22, 1992, letter was not a determination that the Denver-Boulder nonattainment area had met the CAA's section 107(d)(3)(E) criteria for redesignation to attainment, but rather served as an affirmation that no violation of the ozone standard for this area was found. EPA cannot make a determination under section 107(d)(3)(E) until the State submits a complete redesignation request and maintenance plan. One criterion for redesignation to attainment for transitional ozone nonattainment areas, is that to satisfy section 172(c)(1), transitional areas must ensure that any deficiencies regarding enforceability of an existing RACT rule are corrected (refer to 57 FR 13525 dated April 16, 1992).

*CPA Comment 2:* In its second comment, CPA states ''In addition, the basis for the EPA's determination of deficiencies in Regulation No. 7 is based on the ''Post-87'' policy which includes the proposed policy regarding the application of RACT in non-attainment areas. CPA questions the application of this policy to areas designated transitional under the amended Clean Air Act.''

*Response to CPA Comment 2:* The Denver-Boulder area, while classified as transitional, continues to be a designated ozone nonattainment area. Therefore, the Post-87 policy retains its validity for the Denver-Boulder area. Although the Denver-Boulder transitional ozone nonattainment area was not subject to the RACT fix-up requirement, section 182(a)(2)(A), of the amended CAA, the RACT requirement of section 172(c)(1) is applicable. Pursuant to that provision, EPA has determined that it is necessary for the State to correct previously identified significant deficiencies in design, implementation and enforcement in the provisions of Reg. 7.

In a letter dated May 26, 1988, from James Scherer, Regional Administrator for EPA Region VIII, to Governor Roy Romer, EPA notified the State that the Carbon Monoxide SIPs for Colorado Springs and Fort Collins were inadequate to achieve the CO NAAQS. In that same letter, EPA also notified the Governor that the Ozone SIP for the Denver-Boulder metropolitan area had significant deficiencies in design and implementation and requested that those deficiencies be remedied. These specific deficiencies were subsequently documented to the State in a letter, dated June 17, 1988, from Irwin L. Dickstein, Director of the Air and Toxics Division for EPA Region VIII, to Thomas M. Vernon Jr. M.D., the Executive Director of the Colorado Department of Health. The General Preamble to Title I of the 1990 amended CAA (57 FR 13525, dated April 16, 1992) reaffirmed EPA's RACT policy. It provides that to satisfy requirements in section 172(c)(1) of the CAA (''NONATTAINMENT PLAN PROVISIONS IN GENERAL''), transitional ozone nonattainment areas must ensure that any deficiencies regarding enforceability of an existing rule are corrected. The General Preamble to Title I continues by stating that States should be aware that in order to be redesignated to attainment, such transitional ozone nonattainment areas need to correct any RACT deficiencies regarding enforceability prior to redesignation. For the reasons stated above, EPA believes that the 1989 and 1990 revisions to Reg. 7 that have been adopted by the State, are necessary in order to ensure that the RACT requirements of the CAA are met.

*CPA Comment 3:* In its third comment, CPA states ''The provisions for application of RACT under the revisions to Regulation No. 7 will have a direct impact on CPA's membership. Such revisions may not be needed to demonstrate maintenance of the ozone NAAQS and may result in unreasonable requirements in light of current regulatory developments.''

*Response to CPA Comment 3:* EPA is convinced that the revisions to Reg. 7 strengthen the Ozone SIP and are necessary for the Denver-Boulder metropolitan area to continue to achieve the ozone NAAQS as the area continues to experience the significant growth which has occurred in the past few years. EPA believes the benefits from the 1989 and 1990 revisions to Reg. 7 are likely contributing to the improvement in ozone levels that have been observed when compared to prior years. However, the ambient air quality data in AIRS indicates there were still ozone NAAQS exceedences in 1989 (0.130 ppm) and 1993 (0.128 ppm) with near-exceedence values in 1990 (0.120 ppm) and 1992 (0.123 ppm). The above values do appear to be improving, however, when compared to the 28 ozone NAAQS exceedences that were observed from 1980 through 1988.

*CACI Comment 1:* In its first comment, CACI states ''The Denver-Boulder area has not exceeded the ozone National Ambient Air Quality Standards since 1987. The current SIP has, therefore, appropriately allowed the area to attain the NAAQS. Therefore, there is no need for more stringent control of stationary source emissions of volatile organic compounds (VOC).''

*Response to CACI Comment 1:* CACI's comment is not correct. Based on data archived in the AIRS national database, the Denver-Boulder ozone nonattainment area has exceeded the ozone NAAQS as follows: 1988 (twice, 0.125 ppm and 0.136 ppm), 1989 (0.130 ppm), and 1993 (0.128 ppm). Although exceedences of the ozone standard have been recorded, EPA believes that the 1989 and 1990 revisions to Reg. 7 likely contributed to the decreased frequency of exceedences after 1990 and the fact that the Denver-Boulder nonattainment area has not violated the ozone standard.

*CACI Comment 2:* In its second comment, CACI provides an ozone emission inventory, whose source is not referenced, of ''Mobile sources, Minor stationary sources, Consumer products, and Major point sources.'' CACI then states ''Major stationary sources contribute only ten percent to an approximate daily inventory of 200 tons per day. Attachment 4 shows the Denver VOC emissions contributions. We question why Reg 7 is a SIP requirement for stationary sources, whose daily contribution is minor compared to mobile sources, while mobile sources have little or no control.''

*Response to CACI Comment 2:* Under both the pre-amended Act and the Act as amended in 1990, certain stationary sources are required to implement RACT. The purpose of the 1989 and 1990 revisions to Reg. 7 was that EPA required the State to correct identified concerns within Reg. 7, which was already part of Colorado's SIP, that involved significant design, implementation, and enforceability problems. With regard to the CACI provided emissions inventory, EPA cannot validate this emissions inventory as, to date, no current ozone emissions inventory has been submitted by the State. Correspondence in EPA's files indicates the State prepared a preliminary ozone emission inventory in 1987–1988, which was submitted to EPA in 1989. This inventory was not finalized. CACI's comment implies that mobile sources have little or no control of emissions. EPA disagrees as Colorado has had an inspection and maintenance program, for on-road vehicles, since 1983. This program was replaced with an enhanced inspection and maintenance program which began implementation on January 1, 1995. Also, mobile source emission reductions have been realized with the implementation of Federal Motor Vehicle Control Programs (FMVCP).

*CACI Comment 3:* CACI's third comment states ''The current Colorado Ozone SIP was approved by EPA in 1983 (48 FR 55284). The SIP contains a 1981 version of Reg 7 which applies RACT to stationary sources of VOC. The approved Ozone SIP did not rely on the emissions reduction credit that Reg 7 would produce in order to demonstrate attainment; rather, the SIP relied only on mobile source controls in order to demonstrate attainment. There is no ozone attainment demonstration which requires any Reg 7 emission reductions from stationary sources, based on our information and belief. Therefore, there is no demonstrated need for a more stringent revision to the Ozone SIP.''

*Response to CACI Comment 3:* The reader is referred to EPA's response to CPA Comment 2 above as it is directly applicable to CACI's Comment 3. It should be noted that the Denver-Boulder ozone nonattainment area exceeded the ozone NAAQS 25 times during the years 1981 through 1988. This fact was also considered when EPA sent the Governor the May 16, 1988, letter referenced above. Therefore, although the 1981 attainment demonstration relied solely on the mobile source controls, the Denver-Boulder area failed to attain the ozone standard in accordance with that demonstration. In addition, the Denver-Boulder area retained its nonattainment designation under the amended CAA and EPA believes the continued applicability of the RACT requirement makes it necessary for the State to correct existing deficiencies in its RACT rules.

*CACI Comment 4:* CACI's fourth comment states ''The current Ozone SIP contains a definition of VOC that was based on a threshold vapor pressure of 0.1 mm Hg vapor cutoff. EPA modified this definition of VOC (40 CFR 51.100(s)) in 1988. The current Ozone SIP approval of Reg 7 was written with the 0.1 mm Hg vapor cutoff in mind as de minimis threshold. In 1991 the AQCC modified the VOC definition in Colorado Regulations, which inadvertently removed the Reg 7 de minimis threshold. A comparison of other state's de minimis voc thresholds is shown in Attachment 1. A comparison of other state's de minimis size cutoffs and vapor pressure cutoffs is shown in Attachment 2. An example of the extreme cost and minimal air quality benefit of Reg 7 without correcting the inadvertent error of eliminating the de minimis cutoffs is shown in Attachment 3. Therefore, revising the Ozone SIP by adopting the 1989 and 1990 Reg 7 submittal is without legal basis and is more stringent than EPA requires or the AQCC intended.''

*Response to CACI Comment 4:* As an initial matter, EPA cannot disapprove a SIP revision merely because it may be more stringent than required by the CAA. *See* CAA section 116. Similarly, EPA cannot unilaterally determine that a rule will have a more stringent effect than the State intended and rely on such a determination for disapproval. With respect to the comment that there is no legal basis, EPA notes that EPA's approved definition of a Volatile Organic Compound (VOC) is found in 40 CFR Part 51, Subpart F—Procedural Requirements, at 51.100 Definitions, (s) Volatile organic compounds (VOC). In 51.100(s), a VOC is defined as ''. . . any compound of carbon, excluding . . . which participates in atmospheric photochemical reactions.'' As stated in 40 CFR 51.100(s), a VOC is defined based upon atmospheric photochemical reactivity. There is no provision for a VOC to be defined, or exempted, based upon vapor pressure. This vapor cutoff provision was rescinded by EPA in 1988, as such a definition for VOCs would exempt compounds of low volatility, which, under certain processes, could volatilize and, therefore, participate in atmospheric photochemical reactions (refer to EPA's ''ISSUES RELATING TO VOC REGULATION CUTPOINTS, DEFICIENCIES, AND DEVIATIONS, Clarification to Appendix D of [the] November 24, 1987 **Federal Register**'', dated May 25, 1988 and revised November 11, 1990. This document is more commonly referred to as the ''Blue Book''). The only acceptable method to exempt a carbon compound from being classified as a VOC is that it must be determined that the compound has negligible photochemical reactivity (refer to 40 CFR 51.100(s)(1), (2), (3), and (4)).

As stated above and in the proposed rule (59 FR 59189) for this action, EPA is approving the State's VOC definition as submitted in the 1989 and 1990 revisions to Reg. 7. However, on February 3, 1992, EPA published a revised definition of volatile organic compounds (57 FR 3941) with a further revision on October 5, 1994 (59 FR 50693, effective December 5, 1994). The definition excludes a number of organic compounds from the definition of VOC on the basis that they are of negligible

reactivity and do not contribute to tropospheric ozone formation. The State's definition excludes some, but not all, of these compounds. Therefore, the State's definition of VOC provides for the regulation of some compounds which are no longer considered VOCs by EPA. In light of EPA's most recent definition of VOC, EPA will not enforce against sources for failure to control the emission of compounds that are exempt from the federal VOC definition.

*CACI Comment 5:* CACI's fifth comment states ''The 1989 Reg 7 rulemaking which took place over five years ago did not anticipate the lack of de minimis thresholds for a federally enforceable condition. Upon information and belief, since 1988 there has been no ozone attainment demonstration to examine the impact of this revised Reg 7 on our area, i.e., do not know the need for or the impact of Reg 7. However, now that the program is largely self-administering, if Reg 7 becomes a federally enforceable condition, CACI believes many sources in the Denver-Boulder area will be out of compliance with their Title V permits. Therefore, without knowing the impacts of revised Reg 7, we are putting Denver-Boulder industry at risk of enforcement action. To prevent this result, we propose the submittal be delayed until the AQCC can address this issue through rulemaking.''

*Response to CACI Comment 5:* EPA does not understand CACI's comment that the 1989 rulemaking did not anticipate the lack of de minimis thresholds. EPA believes that the 1989 and 1990 revisions to Reg. 7 contain ''de minimis thresholds'' in that exemptions and/or applicability thresholds do appear in Sections II., III., IV., VI., VII., VIII., IX., X., XI., XII., XIII., XIV., and XV. of Reg. 7. These exemptions and applicability thresholds were developed by the State and determined appropriate in consideration of the RACT requirement of the CAA and EPA policy and guidance. With respect to enforcement, EPA notes the 1989 and 1990 revisions to Reg. 7 were legally adopted by the State. Therefore, as stated in Section I. ''APPLICABILITY, B., 2. Existing Sources, c.'' of the revised Reg. 7, all applicable existing sources were required to be in compliance with Reg. 7 on or after October 30, 1991. Additionally, Section I. ''APPLICABILITY, B., 1. New Sources'' provides that ''New sources, defined as any sources which * * * commence operation on or after October 30, 1989, must comply with the provisions of this regulation upon commencement of operation.'' Based on the above, the 1989 and 1990 revisions have been State-enforceable since November 1, 1991, for existing sources, and November 1, 1989, for new sources. Therefore, the impacts from the enforcement of the 1989 and 1990 revisions to Reg. 7 have already been realized by applicable sources in the Denver-Boulder area.

It is unclear to EPA the intent of CACI's statement that sources would be out of compliance with their Title V permits when EPA fully approves the 1989 and 1990 revisions to Reg. 7. The Title V permits will not include any new VOC control requirements, but they will include all federally enforceable requirements and State enforceable requirements. As stated above, compliance with Reg. 7 should have already occurred as existing sources and new sources were required to comply with the applicable provisions of Reg. 7 since November 1, 1991, and November 1, 1989, respectively. Moreover, to the extent that these new requirements are not included in a Title V permit that has been issued prior to the effective date of this final action, the approval of these requirements into the SIP will not in and of itself render such a source out of compliance with its Title V permit. However, consistent with 40 CFR 70.7(f)(1)(i), a source with three or more years remaining on the term of its permit would need to reopen the permit to incorporate these requirements, while a Title V source with less than three years remaining on the permit could incorporate them at renewal. Finally, EPA does note, however, that sources which are subsequently discovered, during the process of applying for a Title V permit, that are not complying with the applicable provisions of Reg. 7, may receive an enforcement action by either the State or EPA depending upon the situation.

Also, approval by EPA of the 1989 and 1990 revisions to Reg. 7 additionally make these revisions federally enforceable and officially revises and updates the State's SIP.

*CACI Comment 6:* In its sixth comment, CACI states ''Finally, EPA's approval of Reg 7 without de minimis thresholds does not meet the spirit of President Clinton's Common Sense Initiative, and it is inconsistent with the Economic Incentive Program (EIP) Rule. CACI urges the AQCC and EPA to review Reg 7 to determine proper de minimis threshold provisions prior to adopting Reg 7 into the SIP.''

*Response to CACI Comment 6:* As stated above in EPA's response to CACI's Comment 5, the 1989 and 1990 revisions to Reg. 7 contain ''de minimis thresholds'' in that exemptions and/or applicability thresholds appear in Sections II., III., IV., VI., VII., VIII., IX., X., XI., XII., XIII., XIV., and XV. of Reg. 7. These exemptions and applicability thresholds were developed by the State and determined appropriate in consideration of the RACT requirement of the CAA and EPA policy and guidance. EPA also participated in the development and review of these revisions to Reg. 7 and has determined the 1989 and 1990 Reg. 7 revisions to the SIP to be fully federally approvable.

EPA disagrees with the CACI statement that approval of the 1989 and 1990 revisions to Reg. 7 is inconsistent with the EIP rules. The 1989 and 1990 Reg. 7 revisions were required by EPA to address design, implementation, and enforceability problems with Reg. 7. The EIP rules, promulgated on April 7, 1994 (59 FR 16710), and codified at 40 CFR Part 51, ''Subpart U-Economic Incentive Programs'', do not determine source specific or category specific RACT requirements. Instead, the EIP rules set forth an alternative program, in this particular reference, for implementing new and/or previously existing RACT requirements through emissions trading (reference 40 CFR 51.493). EIPs were required as a SIP revision for certain ozone and carbon monoxide nonattainment areas as indicated in sections 182(g)(3), 182(g)(5), 187(d)(3), and 187(g) of the CAA. The Denver-Boulder transitional ozone nonattainment area was not required to submit an EIP. EPA notes, however; as provided in 40 CFR 51.490(b), the Denver-Boulder area may elect to submit a discretionary EIP revision to the Colorado SIP.

*CACI Comment 7:* In its seventh comment CACI states ''The Denver-Boulder area, as indicated above, has had no exceedences of the ozone standard since 1987. The area is designated transitional and it is subject to redesignation as attainment. In the 'Background' statements to the proposed rule (59 FR 59191) EPA states: 'For a maintenance plan to be approved and the Denver-Boulder metropolitan area to be redesignated as attainment pursuant to section 107(d)(3)(E), the State, may have to develop specific RACT regulations for major non-CTG sources. Information available to EPA suggests that there has been growth in emissions from some non-CTG sources in the area; RACT regulations for these sources may be necessary to ensure maintenance of the NAAQS for the initial 10-year redesignation attainment period, as is required by section 175A of the ACT.' CACI asks that EPA not act on the Governor's 1989 and 1990 proposal until after a request for redesignation is submitted so that [the] current Reg 7 can

be reviewed and modified as part of the maintenance plan.''

*Response to CACI Comment 7:* The reader is referred to EPA's responses to CACI's Comment 1 and CPA's Comment 2. In addition, EPA notes that it does not have the discretion to unilaterally withhold action on the submittals of the 1989 and 1990 Reg. 7 revisions until the State submits its redesignation request and maintenance plan. EPA will work with the State in developing its redesignation request and maintenance plan, if so requested, to determine if any modifications to Reg. 7 are legally supported.

**Final Action**

EPA is approving Colorado's Ozone SIP revisions, submitted by the Governor on September 27, 1989, and August 30, 1990. These revisions consist of amendments to Reg. 7.

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Approval of this specific revision to the SIP does not indicate EPA approval of the SIP in its entirety.

**Executive Order 12866**

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

**List of Subjects in 40 CFR Part 52**

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

**Note:** Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1980.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: April 19, 1995.

**William P. Yellowtail,**

*Regional Administrator.*

40 CFR part 52, subpart G, is amended as follows:

## PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7671q.

## Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(70) to read as follows:

**§ 52.320 Identification of plan.**

* * * * *

(c) * * *

(70) Revisions to the Colorado State Implementation Plan were submitted by the Governor on September 27, 1989, and August 30, 1990. The revisions consist of amendments to the Ozone provisions in Regulation No. 7, ''Regulation To Control Emissions of Volatile Organic Compounds.''

(i) Incorporation by reference.

(A) Revisions to Regulation No. 7, Sections 7.I (Applicability), 7.II (General Provisions), 7.III (General Requirements for Storage and Transfer of Volatile Organic Compounds), 7.IV (Storage of Highly Volatile Organic Compounds), 7.V (Disposal of Volatile Organic Compounds), 7.VI (Storage and Transfer of Petroleum Liquid), 7.VIII (Petroleum Processing and Refining), 7.IX (Surface Coating Operations), 7.X (Use of Solvents for Degreasing and Cleaning), 7.XI (Use of Cutback Asphalt), 7.XII (Control of VOC Emissions from Dry Cleaning Facilities Using Perchloroethylene as a Solvent), 7.XIII (Graphic Arts), 7.XIV (Pharmaceutical Synthesis), 7.XV (Control of Volatile Organic Compound Leaks from Vapor Collection Systems Located at Gasoline Terminals, Bulk Plants, and Gasoline Dispensing Facilities), and Appendices A (Criteria for Control of Vapors from Gasoline Transfer to Storage Tanks), B (Criteria for Control of Vapors from Gasoline Transfer at Bulk Plants-Vapor Balance System), and D (Test Procedures for Annual Pressure/Vacuum Testing of Gasoline Transport Trucks). The following new emission sources and appendices were added to Regulation No. 7: 7.IX.A.7 (Fugitive Emission Control), 7.IX.N. (Flat Wood Paneling Coating), 7.IX.O. (Manufacture of Pneumatic Rubber Tires), and Appendix E (Emission Limit Conversion Procedure). These revisions became effective on October 30, 1989, and August 30, 1990.

(ii) Additional material.

(A) February 5, 1992, letter from John Leary, Acting Director, Colorado Air Pollution Control Division, to Douglas Skie, EPA. This letter contained the State's commitment to conduct capture efficiency testing using the most recent EPA capture efficiency protocols, and the commitment to adopt federal capture efficiency test methods after they are officially promulgated by EPA.

[FR Doc. 95–13118 Filed 5–26–95; 8:45 am]

BILLING CODE 6560–50–P

**40 CFR Part 60**

**[AD–FRL–5211–4]**

**RIN 2060–AF92**

## Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units; Kentucky

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final revision of rule.

**SUMMARY:** New source performance standards (NSPS) limiting emissions of nitrogen oxides ($NO_X$) from industrial-commercial-institutional steam generating units capable of combusting more than 100 million Btu per hour were proposed on June 19, 1984 and were promulgated on November 25, 1986. These standards limit $NO_X$ emissions from the combustion of fossil fuels, as well as the combustion of fossil fuels with other fuels or wastes. The standards include provisions for facility-specific $NO_X$ standards for steam generating units which simultaneously combust fossil fuel and chemical by-product waste(s) under certain conditions. This document promulgates a facility-specific $NO_X$ standard for a steam generating unit which simultaneously combusts fossil fuel and chemical by-product waste at the Rohm & Haas Kentucky Plant located in Louisville, Kentucky.

**EFFECTIVE DATE:** May 30, 1995.

**ADDRESSES:** *Docket.* Docket Number A–94–49, containing supporting information used in developing the proposed revision, is available for public inspection and copying between the hours of 8 a.m. and 5:30 p.m., Monday through Friday (except for government holidays), at The Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Smith at (919) 541–1549, Combustion Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The objective of the NSPS, promulgated on November 25, 1986, is to limit $NO_X$ emissions from the combustion of fossil fuel. For steam generating units combusting by-product waste, the requirements of the NSPS vary depending on the operation of the steam generating units.

During periods when only fossil fuel is combusted, the steam generating unit must comply with the $NO_X$ emission limits in the NSPS for fossil fuel. During periods when only by-product waste is combusted, the steam generating unit may be subject to other requirements or regulations which limit $NO_X$ emissions, but it is not subject to $NO_X$ emission limits under the NSPS. In addition, if the steam generating unit is subject to Federally enforceable permit conditions limiting the amount of fossil fuel combusted in the steam generating unit to an annual capacity factor of 10 percent or less, the steam generating unit is not subject to $NO_X$ emission limits under the NSPS when it simultaneously combusts fossil fuel and by-product waste.

With the exception noted above, during periods when fossil fuel and by-product waste are simultaneously combusted in a steam generating unit, the unit must generally comply with $NO_X$ emission limits under § 60.44b(e) of the NSPS. Under § 60.44b(e) the applicable $NO_X$ emission limit depends on the nature of the by-product waste combusted. In some situations, however, ''facility-specific'' $NO_X$ emission limits developed under § 60.44b(f) may apply. The order for determining which $NO_X$ emission limit applies is as follows.

A steam generating unit simultaneously combusting fossil fuel and by-product waste is expected to comply with the $NO_X$ emission limit under § 60.44b(e); only in a few situations may $NO_X$ emission limits developed under § 60.44b(f) apply. Section 60.44b(e) includes an equation to determine the $NO_X$ emission limit applicable to a steam generating unit when it simultaneously combusts fossil fuel and by-product waste.

Only where a steam generating unit which simultaneously combusts fossil fuel and by-product waste is unable to comply with the $NO_X$ emission limit determined under § 60.44b(e), might a facility-specific $NO_X$ emission limit under § 60.44b(f) apply. This section permits a steam generating unit to petition the Administrator for a facility-specific $NO_X$ emission limit. A facility-specific $NO_X$ emission limit will be proposed and promulgated by the Administrator for the steam generating unit, however, only where the petition is judged to be complete.

To be considered complete, a petition for a facility-specific $NO_X$ standard under § 60.44b(f) consists of three components. The first component is a demonstration that the steam generating unit is able to comply with the $NO_X$ emission limit for fossil fuel when combusting fossil fuel alone. The purposes of this provision are to ensure that the steam generating unit has installed best demonstrated $NO_X$ control technology, to identify the $NO_X$ control technology installed, and to identify the manner in which this technology is operated to achieve compliance with the $NO_X$ emission limit for fossil fuel.

The second component of a complete petition is a demonstration that this $NO_X$ control technology does not enable compliance with the $NO_X$ emission limit for fossil fuel when the steam generating unit simultaneously combusts fossil fuel with chemical by-product waste under the same conditions used to demonstrate compliance on fossil fuel alone. In addition, this component of the petition must identify what unique and specific properties of the chemical by-product waste(s) are responsible for preventing the steam generating unit from complying with the $NO_X$ emission limit for fossil fuel.

The third component of a complete petition consists of data and/or analysis to support a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts fossil fuel and chemical by-product waste and operates the $NO_X$ control technology in the same manner in which it would be operated to demonstrate and maintain compliance with the $NO_X$ emission limit for fossil fuel, if only fossil fuel were combusted. This component of the petition must identify the $NO_X$ emission limit(s) and/or operating parameter limits, and appropriate testing, monitoring, reporting and recordkeeping requirements which will ensure operation of the $NO_X$ control technology and minimize $NO_X$ emissions at all times.

Upon receipt of a complete petition, the Administrator will propose a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts chemical by-product waste with fossil fuel. The $NO_X$ standard will include the $NO_X$ emission limit(s) and/or operating parameter limit(s) to ensure operation of the $NO_X$ control technology at all times, as well as appropriate testing, monitoring, reporting and recordkeeping requirements.

### II. Comments on the Proposed Standards

Two comment letters were received on the proposed standards. In general, most of the comments in these letters were not within the scope of this rulemaking. Today's action in the **Federal Register**, as was pointed out in the proposal that preceded it (59 FR

66852, [December 28, 1994]), is simply implementing provisions in the 1984 NSPS. The 1984 NSPS contains provisions for approval of facility-specific $NO_X$ standards. The proposal preceding today's action was not intended to reconsider the 1984 NSPS; it was only intended to implement the provisions in the NSPS that allows for facility-specific $NO_X$ standards.

Comments were received on employing the best $NO_X$ control, the effects these $NO_X$ levels would have on local ozone attainment, evaluation of dioxin formation as a result of the allowed $NO_X$ levels, what level of $NO_X$ under what conditions would be appropriate, and revisions to other parts of the 1984 NSPS. It appears the commenters misunderstood the narrow focus of this rulemaking.

The focus of this rulemaking is to adopt a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts fossil fuel and chemical by-product waste which effectively requires that the $NO_X$ control technology be operated in the same manner in which it would be operated to demonstrate and maintain compliance with the $NO_X$ emission limit for fossil fuel, if only fossil fuel were combusted.

One commenter expressed concern that the facility-specific standard be strictly limited to those instances in which the high nitrogen waste is being combusted. The standard does this. Section 60.49b(t)(2)(i) states that when fossil fuel alone is combusted, the lower $NO_X$ emission limit of 0.2 pounds per million Btu for fossil fuel in section 60.44b(a) applies. Only, when the high nitrogen waste is being combusted with the fossil fuel does the facility-specific standard apply.

Another commenter believed that a measurement of the position of the air ratio control damper would be more appropriate inside the boiler, rather than outside of the boiler by the position of the tee handle. While the Administrator would agree with the commenter that a measurement inside the boiler, rather than outside, would provide a more direct indication of compliance with the intent of the standard, it would be much more burdensome to check, particularly given the requirement to check this parameter during each 8-hour operating shift. If a change is made to the boiler tee handle, the change must be reported to the EPA or the delegated local agency, and an appropriate alternative compliance method will need to be determined. Consequently, this aspect of the proposed standard has not been revised.

## III. Administrative Requirements

### *A. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735, [October 4, 1993]), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or land programs, or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule was classified ''non-significant'' under Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

### *B. Paperwork Reduction Act*

The information collection requirements of the previously promulgated NSPS under 40 CFR Part 60, Subpart Db were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0135) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740. Today's changes to the NSPS do not affect the information collection burden estimates made previously. The information that is required to be collected for this facility-specific $NO_X$ standard is the same as for all other affected facilities subject to these NSPS. Therefore, the ICR has not been revised.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of federal regulations upon small business entities. The RFA specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

### *D. Judicial Review*

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

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.Q

Dated: May 22, 1995.

**Craol M. Browner,**

*Administrator.*

### List of Subjects in 40 CFR 60

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Gasoline, Heaters, Intergovernmental relations, Nitrogen dioxide, Petroleum, Reporting and recordkeeping requirements.

Title 40, chapter I, part 60, of the Code of Federal Regulations is amended to read as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7411, 7414, and 7601(a).

## Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

2. Section 60.49b is amended by reserving paragraph (s) and adding paragraph (t) as follows:

**§ 60.49b Reporting and recordkeeping requirements.**

* * * * *

(s) [Reserved]

(t) Facility-specific nitrogen oxides standard for Rohm and Haas Kentucky Incorporated's Boiler No. 100 located in Louisville, Kentucky:

*(1) Definitions.*

*Air ratio control damper* is defined as the part of the low nitrogen oxides burner that is adjusted to control the split of total combustion air delivered to

the reducing and oxidation portions of the combustion flame.

*Flue gas recirculation line* is defined as the part of Boiler No. 100 that recirculates a portion of the boiler flue gas back into the combustion air.

*(2) Standard for nitrogen oxides.* (i) When fossil fuel alone is combusted, the nitrogen oxides emission limit for fossil fuel in § 60.44b(a) applies.

(ii) When fossil fuel and chemical by-product waste are simultaneously combusted, the nitrogen oxides emission limit is 473 ng/J (1.1 lb/million Btu), and the air ratio control damper tee handle shall be at a minimum of 5 inches (12.7 centimeters) out of the boiler, and the flue gas recirculation line shall be operated at a minimum of 10 percent open as indicated by its valve opening position indicator.

*(3) Emission monitoring for nitrogen oxides.* (i) The air ratio control damper tee handle setting and the flue gas recirculation line valve opening position indicator setting shall be recorded during each 8-hour operating shift.

(ii) The nitrogen oxides emission limit shall be determined by the compliance and performance test methods and procedures for nitrogen oxides in § 60.46b.

(iii) The monitoring of the nitrogen oxides emission limit shall be performed in accordance with § 60.48b.

*(4) Reporting and recordkeeping requirements.* (i) The owner or operator of Boiler No. 100 shall submit a report on any excursions from the limits required by paragraph (b)(2) of this section to the Administrator with the quarterly report required by § 60.49b(i).

(ii) The owner or operator of Boiler No. 100 shall keep records of the monitoring required by paragraph (b)(3) of this section for a period of 2 years following the date of such record.

(iii) The owner of operator of Boiler No. 100 shall perform all the applicable reporting and recordkeeping requirements of § 60.49b.

[FR Doc. 95–13154 Filed 5–26–95; 8:45 am]
BILLING CODE 6560–50–P

## 40 CFR Part 721

**[OPPTS–50601E; FRL–4919–7]**

## Pentaerythritol, Mixed Esters With Carboxylic Acids; Revocation of a Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking the significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for pentaerythritol, mixed esters with carboxylic acids, based on receipt of toxicity data. The data indicate that, for purposes of TSCA section 5, the substance will not present an unreasonable risk to health.

**EFFECTIVE DATE:** The effective date of this rule is June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 23, 1992 (57 FR 44050), EPA issued a SNUR establishing significant new uses for pentaerythritol, mixed esters with carboxylic acids (P–91–1250). Because of additional data EPA has received for this substance, EPA is revoking this SNUR.

### I. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 2, 1994 (59 FR 40001). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comments concerning the proposed revocation. As a result, EPA is revoking the SNUR.

### II. Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and that the substance is expected to be produced in substantial quantities and there may be significant or substantial environmental exposure. EPA identified the tests necessary to make a reasoned evaluation of the risks posed by the substance to human health. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter pursuant to the section 5(e) consent order for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and consequently revoked the section 5(e) consent order. The revocation of SNUR provisions for the substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above, EPA is revoking the SNUR provisions for this chemical substance. EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.

### III. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50601 (P–91–1250). This record includes information considered by the Agency in developing this rule and includes the test data that formed the basis for this revocation.

### IV. Regulatory Assessment Requirements

EPA is revoking the requirements of this rule. Any costs or burdens associated with this rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 16, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

### PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority**: 15 U.S.C. 2604, 2607, and 2625(c).

### § 721.5660 [Removed]

2. By removing § 721.5660.

[FR Doc. 95–13134 Filed 5–26–95; 8:45 am]
BILLING CODE 6560–50–F

**40 CFR Part 721**

**[OPPTS–50575E; FRL–4919–7]**

## Substituted Ethylenediamine, Methyl Sulfate Quaternized; Revocation of Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for substituted ethylenediamine, methyl sulfate quaternized, based on receipt of new data. The data indicate that, for purposes of TSCA section 5, the substance will not present an unreasonable risk to the environment.

**EFFECTIVE DATE:** The effective date of this rule is June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 24, 1990 (55 FR 17376), EPA issued a SNUR establishing significant new uses for substituted ethylenediamine, methyl sulfate quaternized. Because of additional data EPA has received for this substance, EPA is revoking this SNUR.

### I. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of June 6, 1994 (59 FR 29258). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comments concerning the proposed revocation. As a result, EPA is revoking this SNUR.

### II. Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the environmental effects of the substance, and that the substance is expected to be produced in substantial quantities and there may be significant or substantial environmental exposure. EPA identified the tests necessary to make a reasoned evaluation of the risks posed by the substance to the environment. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter pursuant to the consent order for the substance and determined that the information available was sufficient to make a reasoned evaluation of the environmental effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and consequently revoked the section 5(e) consent order. The revocation of SNUR provisions for the substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above, EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final, EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.

### III. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50575 (P–89–650). This record includes information considered by the Agency in developing this rule and includes the test data that formed the basis for this revocation.

### IV. Regulatory Assessment Requirements

EPA is revoking the requirements of this rule. Any costs or burdens associated with this rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 16, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

## PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

**§ 721.3580 [Removed]**

2. By removing § 721.3580.

[FR Doc. 95–13143 Filed 5–26–95; 8:45 am]

BILLING CODE 6560–50–F

**40 CFR Part 721**

**[OPPTS–50583J; FRL–4919–8]**

## Substituted Triazine Isocyanurate; Revocation of a Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for substituted triazine isocyanurate, based on receipt of new data. The data indicate that, for purposes of section 5 of TSCA, the substance will not present an unreasonable risk to the environment.

**EFFECTIVE DATE:** The effective date of this rule is June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404. TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 9, 1990 (55 FR 32406), EPA issued a SNUR establishing significant new uses for substituted triazine isocyanurate. Because of additional data EPA has received for this substance, EPA is revoking this SNUR.

### I. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 2, 1994 (59 FR 39311). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comments concerning the proposed revocation. As a result EPA is revoking this SNUR.

### II. Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information

sufficient to make a reasoned evaluation of the health effects of the substance, and that the substance may present an unreasonable risk of injury to human health. EPA identified the tests considered necessary to make a reasoned evaluation of the risks posed by the substance to human health. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed the testing which was conducted by the PMN submitter to address the potential neurotoxicity of the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and consequently revoked the section 5(e) consent order. The revocation of SNUR provisions for the substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above, EPA is revoking the SNUR provisions for this chemical substance. EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.

### III. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50583 (P–86–66). This record includes information considered by the Agency in developing this rule and includes the test data that formed the basis for this revocation.

### IV. Regulatory Assessment Requirements

EPA is revoking the requirements of the rule. Any costs or burdens associated with the rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 16, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

## PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

**§ 721.9760 [Removed]**

2. By removing § 721.9760.

[FR Doc. 95–13141 Filed 5–26–95; 8:45 am]

BILLING CODE 6560–50–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### 42 CFR Part 57

**RIN 0905–AE17**

## Grants for the Establishment of Departments of Family Medicine

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** This final regulation amends the existing regulations governing the program for Grants for the Establishment of Departments of Family Medicine authorized by section 747(b) of the Public Health Service Act (the Act), to bring the regulations into conformity with technical amendments made by the Health Professions Extension Amendments of 1992 and to include other changes for consistency with current grant program policies.

**EFFECTIVE DATE:** This regulation is effective May 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Marc L. Rivo, M.D., Director, Division of Medicine, Bureau of Health Professions, HRSA, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–6190.

**SUPPLEMENTARY INFORMATION:** This final rule amends the existing regulations for Grants for the Establishment of Departments of Family Medicine, authorized under section 747(b) of the Public Health Service Act (the Act) (42 U.S.C. 293k). The Health Professions Education Extension Amendments of 1992 (Pub. L. 102–408) amended and renumbered former section 780 of the Act (42 U.S.C. 295g) to section 747.

Section 747(b) of the Act, as amended, authorizes the Secretary to make grants to and enter into contracts with accredited schools of medicine or osteopathic medicine to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine. The primary purpose of the program is to assist family medicine academic administrative units to achieve comparability in status, faculty, and curriculum with those of other clinical units at the applying schools.

The Notice of Proposed Rulemaking (NPRM), published on July 19, 1994 in the **Federal Register** (59 FR 36733), proposed amendments to implement several statutory provisions made by Pub. L. 102–408 to section 747(b) by: (1) Revising the definitions of ''academic administrative unit'' and ''other major clinical units'', and add the term ''clinical campus''; (2) revising and clarifying some program requirements—to permit a program applicant to use a program director from the clinical campus rather than the parent medical school, to extend a requirement to control a residency program to the clinical campus program, and to clarify that training to all medical students can be met by the combined effort of the parent family medicine administrative unit and the clinical campus administrative unit.

The public comment period on the proposed regulations closed August 18, 1994. The Department received 4 public comments. The comments received on the proposed rule to section 747 and the Department's responses to the comments are discussed below according to the section numbers and the headings of the regulations affected.

*Section 57.1702 ''Definitions''*

The Department proposed to revise the following terms in this section:

*Academic administrative unit* or *unit* means a department, division, or other formal academic unit of a school of medicine or osteopathic medicine or clinical campuses of such schools that provides clinical instruction in family medicine.

The Department received positive response to this definition.

*Clinical campus* means a geographically separate educational entity of an accredited medical school that has been given the responsibility to coordinate or provide all clinical training for at least 10 percent of the school's third-year students.

The Department received 2 comments on this definition. One respondent favorably indicated that this definition ''would give small programs the

autonomy necessary to respond to the demand for primary care practitioners in rural America.''

Another respondent requested that the clinical training requirement of 10 percent for third-year students be changed to 8 percent.

In response to this comment, the Department has reexamined this definition and has removed the phrase ''for at least 10 percent of the school's third-year students''. The Department has subsequently determined that there is a potential for a serious problem in determining and monitoring the eligibility of those clinical campuses that apply for funding based on the 10 percent criteria. The NPRM proposed that in order to be considered eligible for funding as a clinical campus, at least 10 percent of the third-year class must be in training at that clinical campus. The Department now believes that this criterion does not constitute an adequate basis for the identification of a clinical campus. This 10 percent of a small third-year class in a small school would not constitute a critical mass of students and educational structures necessary for the resources to plan an academic unit, comparable to other units, and therefore, the Department is removing this phrase from the definition.

The Department further modified this definition by adding the requirement that the clinical campus must be ''recognized and identified as such by the American Academy of Family Physicians,'' after the words ''accredited medical school'' as an objective method of determining those eligible. The American Academy of Family Physicians (AAFP) publishes annually the activities and status of family medicine teaching and training programs at medical schools. The publication is used as a valid reference work on the accreditation status of family medicine programs. Over the last several decades, PHS has relied upon the accessibility and accuracy of information on the current status of accreditation of family practice training and teaching programs through the AAFP data base.

*Other major clinical units* means formal academic units at the applicant school or its clinical campus that offer clinical instruction in internal medicine, obstetrics and gynecology, pediatrics, psychiatry, or surgery.

The phrase ''or its clinical campus'' was added to reflect the change to the definition of ''academic administrative unit'' cited above.

*Section 57.1704 ''Program Requirement.''*

The Department revised paragraph (a) of this section. The phrase ''in an administrative unit'' was added to permit a program applicant to use a program director from the clinical campus rather than the parent medical school. In many instances the level of medical school involvement in the remote campus is not sufficient to exercise effective management of the training provided at the clinical campus.

The Department deleted a parenthetical phrase in paragraph (d) of this section, ''(or in the case of a school of osteopathic medicine, have control over or be closely affiliated with)'', to remove the redundancy within this paragraph. The phrase ''or clinical campus'' was added to extend the requirement to control a residency program so that a residency program controlled by the parent medical school department would meet the residency requirement for an application for assistance for a clinical campus.

The parenthetical phrase in paragraph (e) of this section was added, ''(or units in the case of schools with one or more decentralized units)'', to clarify that the requirement to provide training to all medical students can be met by the combined efforts of the parent family medicine administrative unit and the clinical campus administrative unit.

The Department added the phrase ''or clinical campus'' in paragraph (f) of this section to clarify that in comparing numbers of clinical faculty, the clinical campus family medicine administrative unit should be compared to other clinical campus units.

In addition to the changes proposed above, a number of technical and ministerial revisions were included to conform the existing regulations with amendments made by Pub. L. 102–408. The following changes were made to the regulations:

1. The section number of the Act was revised from ''780'' to ''747'' wherever it appeared in subpart R, as renumbered, and the United States Code citation was revised from ''(42 U.S.C. 295g)'' to ''(42 U.S.C. 293k)'', in accordance with Pub. L. 102–408.

2. Section 57.1702, entitled ''*Definitions.*'', was amended to revise the section number of the Act in the definition of ''School of medicine or school of osteopathic medicine'' from ''701(5)'' to ''799(1)(E)'', in accordance with Pub. L. 102–408.

3. Section 57.1704, entitled ''*Program requirements.*'', was amended to revise the section number ''786(a)'' in paragraph (h) to ''747'', in accordance with Pub. L. 102–408.

4. Section 57.1705, entitled ''*How will applications be evaluated?*'', was further revised to reflect current statutory language, as required by section 798(a) of the Act, regarding the evaluation and recommendation process of awarding grant applications by removing the reference to the National Advisory Council on Health Professions Education and the section of the Act which established it. Pub. L. 102–408 repealed the Advisory Council effective October 1, 1992.

The Department further revised § 57.1709, entitled ''*What other audit and inspection requirements apply to grantees?*'', to:

(a) Remove the reference to ''section 705 of the PHS Act'' concerning audit and inspection requirements because it is redundant to the requirements that are already covered under 45 CFR part 74; and

(b) Remove the parenthetical phrase at the end of the section text citing the OMB approval number regarding information collection requirements as no longer necessary.

Further, PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

**Economic Impact**

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

This final rule governs a financial assistance training grant program in which participation is voluntary. The Department believes that the resources required to implement the requirements in these regulations are minimal. Because this final rule makes minor changes in an existing grant program, and in accordance with the Regulatory Flexibility Act of 1980, the Secretary certifies that this rule will not have a significant economic impact on small entitites. For the same reasons, the Secretary has also determined that this

rule is not a ''significant'' rule under Executive Order 12866.

**Paperwork Reduction Act of 1980**

This final rule does not affect the recordkeeping or reporting requirements in the existing regulations for the Grants for the Establishment of Departments of Family Medicine.

**List of Subjects in 42 CFR Part 57**

Aged, Dental health, Education of disadvantaged, Educational facilities, Education study programs, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Reporting and recordkeeping requirements, Scholarships and fellowships, Student aid.

(*Catalog of Federal Domestic Assistance*, No. 93.984, Grants for the Establishment of Departments of Family Medicine)

Dated: April 4, 1995.

**Philip R. Lee,**

*Assistant Secretary for Health.*

Approved: May 19, 1995.

**Donna E. Shalala,**

*Secretary.*

Accordingly, 42 CFR part 57, subpart R is amended as set forth below:

## PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

1. The authority citation for subpart R is revised to read as follows:

**Authority:** Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 780, Public Health Service Act, 90 Stat. 2311, as amended by 95 Stat. 221 and 102 Stat. 3146 (42 U.S.C. 295g); renumbered as sec. 747, as amended by Pub. L. 102–408, 106 Stat. 2042–2043 (42 U.S.C. 293k).

**§ 57.1701 [Amended]**

2. Section 57.1701 introductory text is amended by revising the section number of the Act ''780'' to read ''747'' and the United States Code ''(42 U.S.C. 295g)'' to read ''(42 U.S.C. 293k)''.

3. Section 57.1702 is amended by revising the section number of the Act ''701(5)'' in the definition of ''*School of medicine or osteopathic medicine*'' to read ''799(1)(E)''; by revising the definitions of ''*Academic administrative unit* or *unit*'' and ''*Other major clinical units*''; and by adding the definition ''*Clinical campus*'' to read as follows:

**§ 57.1702 Definitions.**

*Academic administrative unit* or *unit* means a department, division, or other formal academic unit of a school of medicine or osteopathic medicine or clinical campuses of such schools that provides clinical instruction in family medicine.

* * * * *

*Clinical campus* means a geographically separate educational entity of an accredited medical school that is recognized and identified as a clinical campus by the American Academy of Family Physicians and that has been given the responsibility to coordinate or provide all clinical training for that clinical campus.

* * * * *

*Other major clinical units* means formal academic units at the applicant school or its clinical campus that offer clinical instruction in internal medicine, obstetrics and gynecology, pediatrics, psychiatry, or surgery.

* * * * *

4. Section 57.1704 is amended by revising the section number ''786(a)'' in paragraph (h) to read ''747''; and by revising paragraphs (a), (d), (e), and (f) to read as follows:

**§ 57.1704 Program requirements.**

* * * * *

(a) Each project must have a project director, who works at the grantee institution in an administrative unit of the grantee institution on an appointment consistent with other major departments, heads or will head the unit, and has relevant training and experience in family medicine.

* * * * *

(d) The unit must have control over a residency training program. The program must have the capacity to enroll a total of at least 9 interns or residents annually. A unit whose applicant school or clinical campus does not have a residency program accredited under its direct authority will be considered as meeting this requirement if it has a written affiliation agreement with a hospital which conducts a residency program as described.

(e) The unit (or units in the case of schools with one or more decentralized units) must have responsibility for providing instruction to each member of the student body who is engaged in an education program leading to a degree in doctor of medicine or doctor of osteopathic medicine. The amount of mandatory and elective curriculum must be comparable to the amount of mandatory and elective curriculum time required for other major clinical units at the school.

(f) The unit must have, in the judgment of the Secretary, a sufficient number of full-time faculty to conduct the instruction. The number of family medicine faculty in the unit must be comparable to that of full-time faculty responsible for conducting the instruction of one of the other major clinical units either at the school or at the clinical campus, whichever is the same as the unit receiving the grant funds.

* * * * *

5. Section 57.1705 is amended by revising the introductory text to read as follows:

**§ 57.1705 How will applications be evaluated?**

As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will award grants to applicants whose projects will best promote the purposes of section 747 of the Act and this subpart. The Secretary will consider, among other factors:

* * * * *

6. Section 57.1709 is revised to read as follows:

**§ 57.1709 What other audit and inspection requirements apply to grantees?**

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 74 concerning audit and inspection.

(Approved by the Office of Management and Budget under conrol number 0915–0060)

[FR Doc. 95–13130 Filed 5–26–95; 8:45 am]

BILLING CODE 4160–15–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

**[ET Docket No. 92–165; FCC 93–260]**

### Restricted Bands of Operation

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final regulations which were published June 21, 1993 (58 FR 33774). The regulations relate to the expansion of the restricted bands of operation for international radiators.

**EFFECTIVE DATE:** May 30, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Errol Chang, Office of Engineering and Technology, (202) 739–0714.

**SUPPLEMENTARY INFORMATION:** The final regulations that are the subject of this correction were amended in ET Docket 92–165, modifying 47 CFR Section 15.205. As published in the CFR, the final regulations contain errors which may prove to be misleading and are in need of correction.

**List of Subjects in 47 CFR Part 15**

Communication equipment, Radio.

Accordingly, 47 CFR Part 15 is corrected by making the following correction amendments:

## PART 15—RADIO FREQUENCY DEVICES

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

**Authority:** Secs. 4(i), 302, 303, 304, 307 and 624A of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

**§ 15.205 [Amended]**

2. In § 15.205, paragraph (a), column two of the table the first entry ''16.42–423'' is revised to read ''16.42–16.423''.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95–13114 Filed 5–26–95; 8:45 am]

BILLING CODE 6712–01–M

## 47 CFR Part 73

**[MM Docket No. 94–152; RM–8565]**

## Radio Broadcasting Services; Bells, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Thomas S. Desmond, allots Channel 225A to Bells, Texas, as the community's first local FM service. *See* 59 FR 66884, December 28, 1994. Channel 225A can be allotted to Bells in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 33–36–37 North Latitude and 96–24–38 West Longitude. With this action, this proceeding is terminated.

**DATES:** Effective July 10, 1995. The window period for filing applications will open on July 10, 1995, and close on August 10, 1995.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–152, adopted May 17, 1995, and released May 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

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

## PART 73—[AMENDED]

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

**Authority:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Bells, Channel 225A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95–13113 Filed 5–26–95; 8:45 am]

BILLING CODE 6712–01–F

# Proposed Rules

Federal Register
Vol. 60, No. 103
Tuesday, May 30, 1995

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Chapter I

**[Summary Notice No. PR–95–1]**

### Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for rulemaking received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received July 31, 1995.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132. Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

**FOR FURTHER INFORMATION CONTACT:** Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraph (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on May 23, 1995.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Petitions For Rulemaking

*Docket No.:* 28050
*Petitioner:* Mr. Richard D. Henry
*Regulations Affected:* 14 CFR 121.305(f)
*Description of Rulechange Sought:* To delete paragraph (f) of § 121.305 and replace it with a new paragraph (f), to read as follows: A gyroscopic rate of turn indicator combined with an integral slip-skid indicator (turn and bank indicator).
*Petitioner's Reason for the Request:* The petitioner feels that such a change reflects several things: Graveyard spirals, spins, rolls, and split ''S'' upsets continue to plague the industry; reliable means for the stopping of the turn is essential; turn needle is still the most trustworthy gyro to guarantee that the turn is stopped; new laser gyro's on occasion do tumble, notwithstanding the fact that they are rate gyro driven; turn needle is the only gyro that is sage for use following an in-flight power restoration during dynamic gravity influence, the only one to guarantee proper erection.

*Docket No.:* 28111
*Petitioner:* Mr. Alankar Gupta
*Sections of the FAR Affected:* 14 CFR parts 121 and 135
*Description of Rulechange Sought:* To prevent any person from transporting, storing, displaying, or using, on the flight deck, any visual or audible material that is unnecessary for safe operation of the airplane or is offensive to any crewmember.
*Petitioner's Reason for the Request:* The petitioner feels that such material has caused a number of instances of unpleasant, tense, stressful, or confusing situations within the cockpits aboard commercial aircraft. Such conditions can lead to reduced crew performance capabilities. Also, tense, stressful, unpleasant, or bewildering conditions can cause the crew to respond slowly (or wrongly) during emergency situations. This can lead to accidents.

### Dispositions of Petitions

*Docket No.:* 25063
*Petitioner:* Air Line Pilots Association
*Sections of FAR Affected:* 14 FR 121.437
*Description of Rulechange Sought:* To increase the basic flight time and experience requirements for persons acting as pilots in command of air carrier aircraft having a passenger seating capacity, excluding any pilot seat, of more than 30 seats or a payload capacity of more than 7500 pounds. It would also increase the basic flight time and experience requirements of persons acting as second in command of large aircraft or turbojet-powered multiengine aircraft type certificated for more than one required flight crewmember.
*Petitioner's Reason for the Request:* The petitioner feels that because of the growing complexity and changes in operations within commercial aviation a continually escalating need for new pilots has meant rapid pilot progression from the position of second in command to pilot in command.
*Denial, March 22, 1995.*

[FR Doc. 95–13133 Filed 5–26–95; 8:45 am]
**BILLING CODE 4910–13–M**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 914

**[IN–122, IN–123, IN–124]**

### Indiana Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of three proposed amendments to the Indiana regulatory program (hereinafter

referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). All three proposed amendment packages revise the Indiana Administrative Code (IAC) regulations. The first amendment package amends the Indiana program at both 310 IAC 0.6 and 310 IAC 12 by revising the response to petitions for review and the suspension or revocation of permits under Indiana law at IC 13–4.1. The second amendment revises revegetation standards for success for nonprime farmland for surface and underground coal mining and reclamation operations under IC 13–4.1. The third amendment revises the Small Operator Assistance Program (SOAP) regulations. The proposed amendments are intended to revise the Indiana program to be consistent with the corresponding Federal regulations. The amendments also incorporate changes desired by the State that address various parts of the State regulations.

**DATES:** Written comments must be received by 4 p.m., E.D.T., June 29, 1995. If requested, a public hearing on the proposed amendment will be held on June 26, 1995. Requests to speak at the hearing must be received by 4 p.m., E.D.T. on June 14, 1995.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office at the first address listed below.

Copies of the Indiana program, the proposed amendments, 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 amendments by contacting OSM's Indianapolis Field Office.

Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, Room 301, Indianapolis, Indiana 46204, telephone: (317) 226–6166.

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, telephone: (317) 232–1547.

**FOR FURTHER INFORMATION CONTACT:**

Roger W. Calhoun, Director, Indianapolis Field Office, Telephone: (317) 226–6166.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary' findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

## II. Discussion of the Proposed Amendments

### *A. Indiana Program Amendment Number 95–1*

By letter dated May 3, 1995 (Administrative Record No. IND–1459), the Indiana Department of Natural Resources (IDNR) submitted to OSM State program amendment number 95–1 consisting of revisions to 310 IAC 0.6–1–5 and 310 IAC 12–6–6.5 concerning the response to petitions for review and the suspension or revocation of permits under IC 13–4.1.

310 IAC 0.6–1–5 Petition for Review; Response

Indiana proposes several nonsubstantive wording changes, subsection and regulation reference changes, and paragraph notation changes to reflect the organizational changes made throughout this section.

Indiana is proposing to amend subsection (c) to require the director of IDNR or a delegate to issue an order ''of permit suspension or revocation pursuant to IC 13.4.1–11–6'' in place of an order ''to show cause why the permit should not be revoked or suspended.'' In conjunction with this proposed change, Indiana proposes to amend subsections (c), (c)(2), (d), (e), (e)(1)(A), (e)(4), (f), and existing (g)(2) [proposed (h)(2)] by changing existing language from ''an order to show cause'' to ''an order of permit suspension or revocation.''

At subsection (d), Indiana is clarifying that an order of permit suspension or revocation is governed by IC 4–21.5–3–6.

Indiana is proposing to amend the language of subsection (e) to allow a permittee who desires to contest an order of permit suspension or revocation to file ''a petition for review pursuant to IC 4–21.5–3–7'' rather than filing ''an answer specifically denying those allegations of the order to show cause which the permittee desires to contest.'' In conjunction with this proposed revision, Indiana proposes to amend subsections (f), (g)(1), existing (g)(3) [proposed (i)(2)], and existing (h)(3) [proposed (k)(2)] by changing the existing language from ''an answer'' to ''a petition for review.''

Indiana is proposing to revise subsection (f) to read as follows:

If a petition for review is not filed by the permittee under subsection (e), the order of permit suspension or revocation shall become an effective and final order of the commission without a proceeding pursuant to IC 13–4.1–11–6(b).

Indiana is proposing to revise the existing language at subsection (g)(1) and to add new provisions at subsections (g)(1)(A), (g)(1)(B), (g)(1)(B)(A) and (B), and new (g)(2) as follows:

(g)(1) If a petition for review is filed by the permittee under subsection (e), and a hearing on the order is desired by the permittee, the matter shall be assigned to an administrative law judge for a proceeding under IC 4–21.5–3. The proceeding is commenced when the permittee files a petition for review under subsection (e). In a hearing conducted under this section, the director has the burden of going forward with evidence demonstrating that the permit in question should be suspended or revoked. This burden shall be satisfied if the director establishes a prima facie case that: (A) A pattern of violations of any requirements of IC 13–4.1, 310 IAC 12, or any permit conditions required under IC 13–4.1 or 310 IAC 12 exists or has existed; and (B) the violations were: (A) willfully caused by the permittee; or (B) caused by the unwarranted failure of the permittee to comply with any requirements of IC 13–4.1, 310 IAC 12, or any permit conditions required under IC 13–4.1 or 310 IAC 12. For the purposes of this subsection, the unwarranted failure of the permittee to pay any fee required under IC 13–4.1 or 310 IAC 12 constitutes a pattern of violations and requires the issuance of an order of permit suspension or revocation. (2) If the director demonstrates that the permit in question should be suspended or revoked, the permittee has the ultimate burden of persuasion to show cause why the permit should not be suspended or revoked. A permittee may not challenge the fact of any violation that is the subject of a final order of the director.

Indiana is proposing to relocate the provisions of existing subsections (g)(2) and (g)(2) (A) through (D) to new subsections (h) and (h) (1) through (4); to amend the provisions of new subsection (h) by requiring the administrative law judge to issue

findings and a written recommendation to the commission ''to affirm, modify, or vacate the order of permit suspension or revocation''; and to relocate the reference to ''the administrative law judge'' to the last sentence in new subsection (h) and to delete this reference from new subsections (h)(1) through (4).

Indiana is proposing to move the provisions of subsection (g)(3) to new subsection (i).

Indiana is proposing to relocate the provisions of existing subsection (g)(4) to new subsection (j) and to amend the provisions by deleting the first sentence.

In response to a required amendment at 30 CFR 914.16(ff), Indiana proposes the deletion of the provision immediately following existing subsection (g)(4)(B). This provision allows issuance of the administrative law judge's findings and nonfinal order within sixty (60) days after conclusion of a permit suspension or revocation hearing.

Existing subsection (h) is proposed to be moved to new subsection (k) and the following revisions are proposed. At new subsection (k), the language ''the director issues a recommended order under subsection (f) or'' is deleted; the final order of the commission shall be entered within ''forty-five (45)'' days rather than ''fifty (50)'' days; and the language ''director's recommended order or the'' is deleted. The language in existing subsection (h)(1) ''ninety (90) days following receipt of the order to show cause by the permittee, where the permittee does not comply with the requirements of subsection (c)'' is deleted.

310 IAC 12–6–6.5 Suspension or Revocation of Permits

Indiana is proposing to amend the language of subsection (a) to require the director of IDNR to issue ''to the permittee an order of permit suspension or revocation'' in place of ''an order to the permittee requiring the permittee to show cause why the permit and a right to mine under IC 13–4.1 should not be suspended or revoked.''

At subsection (c), Indiana is proposing to revise the language which requires the director to issue ''a show cause order as provided in 310 IAC 0.6–1–5(c)'' by replacing it with language which requires the director to issue ''an order of permit suspension or revocation as provided in 310 IAC 0.6–1–5. In conjunction with the above revisions, Indiana is proposing to amend subsections (d), (e), and (g) by changing the type of order from ''show cause order'' to ''order of permit suspension or revocation'' and by revising regulation references.

At subsection (f), Indiana is changing the phrase ''[i]f the committee suspends or revokes a permit'' to ''[i]f a permit is suspended or revoked.''

*B. Indiana Program Amendment Number 95–2*

By letter dated May 3, 1995 (Administrative Record Number IND–1460), the IDNR submitted program amendment number 95–2. This amendment revises 310 IAC 12–5–64.1 and 310 IAC 12–5–128.1 pertaining to revegetation standards for success for nonprime farmland for surface and underground coal mining operations under IC 13–4.1.

310 IAC 12–5–64.1+ (Surface Mining) and 12–5–128.1 (Underground Mining) Revegetation; Standards for Success for Nonprime Farmland

Since the revisions being proposed for surface mining at § 12–5–64.1 are identical to those being proposed for underground mining at § 12–5–128.1, they will be combined for ease of discussion.

Indiana proposes paragraph notation changes to reflect the organizational changes made throughout subsections (c).

Indiana is, also, proposing to revise subsections (c) by correcting its reference to the ''Soil Conservation Service'' to the ''Natural Resources Conservation Service'' throughout.

Subsections (c)(3) concern the production success standards for revegetated pastureland areas. Indiana is proposing to relocate the provision in existing subsections (c)(4), which requires that if the current Natural Resources Conservation Service predicted yield by soil map units is used to determine production of living plants then the standard for success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit areas at the time the permit was issued, to subsections (c)(3)(B).

Indiana is proposing to delete the existing provision in subsections (c)(3)(C) for determining production of living plants on pastureland and is proposing to add the following provision.

(C) A target yield determined by the following formula: Target Yield=NRCS Target Yield × (CCA/10 Year CA) where: NRCS Target Yield=the average yield per acre, as predicted by the Natural Resources Conservation Service, for the crop and the soil map units being evaluated. The most current yield information at the time of permit issuance shall be used, and shall be contained in the appropriate sections of the permit application. CCA=the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. 10 Year CA=the ten (1) Year Indiana Agricultural Statistics Service county average, consisting of the year being evaluated and the nine (9) preceding years.

Indiana is proposing to add new subsections (c)(3)(D) which allow other methods approved by the director of IDNR to be used in determining success of production of living plants on the revegetated area.

Existing subsections (c)(6) are redesignated subsections (c)(5). These subsections concern the success standards for production on revegetated cropland areas. Indiana is proposing to relocate the provision in existing subsections (c)(7), which requires that if the current Natural Resources Conservation Service predicted yield by soil map units is used to determine production of living plants then the standard for success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit areas at the time the permit was issued, to redesignated subsections (c)(5)(B).

Indiana is proposing to delete the provision in existing subsections (c)(6)(C) for determining production of living plants on cropland and is proposing to add the following provision to redesignated subsections (c)(5)(C).

(C) A target yield determined by the following formula: Target Yield=CCA × (NRCSP/NRCSC) where; CCA=the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. NRCSP=the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which existed on the permit at the time the permit was issued. NRCSC=the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which is shown to exist in the county on the most current county soil survey. A croppable soil is any soil which the Natural Resources Conservation Services has defined as being in capability class I, II, III, or IV.

Indiana is proposing to add new subsections (c)(5)(D) which would allow other methods approved by the director

of IDNR to be used in determining success of production of living plants on revegetated areas.

Indiana is proposing to move from existing subsections (c)(7) to new subsections (c)(5)(E) the provision which requires that once the method for establishing the standards has been selected, it may not be modified without the approval of the director.

*C. Indiana Program Amendment Number 95–3*

By letter dated May 3, 1995 (Administrative Record Number IND–1461), Indiana submitted State program amendment number 95–3. This amendment revises the SOAP regulations at 310 IAC 12–3 to more closely reflect the latest changes to 30 CFR Part 795.

310 IAC 12–3–130 Small Operator Assistance; Definitions

Indiana proposes to add two new definitions to this section as follows:

Program administrator means the state or federal official within the regulatory authority who has the authority and responsibility for overall management of the Small Operator Assistance Program; and

Qualified laboratory means a designated public agency, private firm, institution, or analytical laboratory that can provide the required determination of probable hydrologic consequences or statement of results of test boring or core samplings or other services as specified at 30 IAC 12–3–133 under the Small Operator Assistance Program and that meets the standards of 310 IAC 12–3–134.

310 IAC 12–3–131 Small Operator Assistance; Eligibility for Assistance

Indiana is proposing the following revisions to its regulations pertaining to eligibility for assistance.

In the introductory sentence of § 12–3–131, the language ''who establishes the following'' is replaced with the language ''if he or she.''

At § 12–3–131(1), the language ''[a]n intention'' is replaced by the word ''intends.''

At § 12–3–131(2), the criteria for eligibility for assistance is revised by providing that the probable total attributed annual production for all locations will not exceed three hundred thousand (300,000) tons.

At § 12–3–131(2)(B) and (C), the percentage of ownership of applicant is changed from five percent to ten percent with respect to the pro rata share which ownership will play in determining attributed coal production.

310 IAC 12–3–132.5 Small Operator Assistance; Application Approval and Notice

Indiana is proposing to add the following new § 12–3–132.5 pertaining to application approval and notice.

(a) If the program administrator finds the applicant eligible, he or she shall inform the applicant in writing that the application is approved. (b) If the program administrator finds the applicant ineligible, he or she shall inform the applicant in writing that the application is denied and shall state the reasons for denial.

310 IAC 12–3–133 Small Operator Assistance; Program Services and Data Requirements

Indiana is proposing to amend 310 IAC 12–3–133 as follows:

At subsection (a), the existing language is deleted and the following language is added.

(a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination and statement and provide other services referenced in paragraph (b) of this section for eligible operators who request assistance. Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.

At subsection (b), the existing language is revised to read as follows:

(b) The program administrator shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for: (1) The determination of the probable hydrologic consequences of the surface mining and reclamation operation in the proposed permit area and adjacent areas, including the engineering analyses and designs necessary for the determination in accordance with 310 IAC 12–3–47 and 310 IAC 12–3–81, and any other applicable provisions of the Act; (2) the drilling and statement of the results of test borings or core samplings from the proposed permit area, in accordance with 310 IAC 12–331 and 310 IAC 12–369 and any other applicable provisions of the Act; (3) the development of cross-section maps and plans required by 310 IAC 12–3–39 and 310 IAC 12–3–76; (4) the collection of archaeological and historic information and related plans required by 310 IAC 12–3–29, 310 IAC 12–3–67, 310 IAC 12–3–38, 310 IAC 12–3–75, and any other archaeological and historic information required by the regulatory authority; (5) pre-blast surveys required by 310 IAC 12–3–43; and (6) the collection of site-specific resources information, the production of protection and enhancement plans for fish and wildlife habitats required by 310 IAC 12–3–46.5 and 310 IAC 12–3–68.5 and information and plans for any other environmental values required by the regulatory authority under the Act.

310 IAC 12–3–134 Small Operator Assistance; Qualified Laboratories

Indiana proposed several revisions to subsections (a) and (b). These subsections, as revised, read as follows:

(a) To be designated a qualified laboratory, a firm shall demonstrate that it—(1) Is staffed with experienced, professional personnel in the fields applicable to the work to be performed; (2) has adequate space for material preparation, cleaning, and sterilizing equipment, and has stationary equipment, storage, and space to accommodate work loads during peak periods; (3) meets applicable federal or state safety and health requirements; (4) has analytical, monitoring and measuring equipment capable of meeting the applicable standards; (5) has the capability of collecting necessary field samples and making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, geologic, or analytical methods in accordance with the requirements of 310 IAC 12–3–30 through 310 IAC 12–3–33, 310 IAC 12–3–47, 310 IAC 12–3–68 through 310 IAC 12–3–71, and any other applicable provisions of the ACT. Other appropriate methods or guidelines for data acquisition may be approved by the program administrator; and (6) has the capability of performing services for either the determination or statement referenced in 310 IAC 12–3–133.

(b) Subcontractors may be used to provide some of the required services provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified by the program administrator.

310 IAC 12–3–135 Small Operator Assistance; Applicant Liability

Indiana is proposing to redesignate the introductory paragraph of § 12–3–135 as subsection (a), to revise the existing applicant reimbursement requirements in subdivisions (1) through (4), and to add a waiver of reimbursement provision at subsection (b). Revised subdivisions (1) through (4) and new subsection (b) reads as follows:

(a)(1) submits information, fails to submit a permit application within one (1) year from the date of receipt of the

approved laboratory report, or fails to mine after obtaining a permit; (2) the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand (300,000) tons during the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit; (3) the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the three hundred thousand (300,000) ton production limit during the twelve (12) months immediately following the date on which the permit was originally issued. Under this subdivision, the applicant and its successor are jointly and severally obligated to reimburse the regulatory authority; or (4) the applicant does not begin mining within six (6) months after obtaining the permit.

(b) The program administrator may waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith.

## 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 Indiana 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 Indianapolis 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., E.D.T. on June 14, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests and 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 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.

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.**

*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 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

*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 or 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(2)(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 to this rule is based upon corresponding 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 OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relief upon the data and assumptions for the corresponding Federal regulations.

**List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 1995.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 95–13157 Filed 5–26–95; 8:45 am]

BILLING CODE 4310–05–M

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 914

**[IN–126; Amendment Number 95–9]**

## Indiana Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the addition of six definitions to the Indiana Administrative Code (IAC) at 310 IAC 12. These definitions pertain to acid mine drainage; augmented seeding, fertilization, or irrigation; high level management; public building; randomly located; and support facility. The proposed amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., e.d.t. June 29, 1995. If requested, a public hearing on the proposed amendment will be held on June 26, 1995. Requests to speak at the hearing must be received by 4:00 p.m., e.d.t. on June 14, 1995.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office at the first address listed below.

Copies of the Indiana 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 Indianapolis Field Office.

Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, Room 301, Indianapolis, Indiana 46204, Telephone: (317) 226–6166

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232–1547

**FOR FURTHER INFORMATION CONTACT:** Roger W. Calhoun, Director, Indianapolis Field Office, Telephone: (317) 226–6166.

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

## II. Discussion of the Proposed Amendments

By letter dated May 11, 1995, the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA (State program amendment number 95–9, administrative record No. IND–1469). Indiana submitted the proposed amendment at its own initiative. Amendment number 95–9 consists of the addition of six definitions to article 310 IAC 12–0.5. The full text of the six definitions is shown below.

*1. 310 IAC 12–0.5–2 ''Acid Drainage'' defined*

''Acid drainage'' means water with a Ph of less than six (6.0) and in which total acidity exceeds total alkalinity, discharged from an active, inactive, or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

*2. 310 IAC 12–0.5–14 ''Augmented Seeding, Fertilization, or Irrigation'' Defined*

''Augmented seeding, fertilization, or irrigation'' means seeding, fertilizing, or irrigating in excess of normal agronomic practices within the region.

*3. 310 IAC 12–0.5–57 ''High Level Management'' defined*

''High level management'' means that the following agronomic practices must be implemented:

(1) Using cropping systems that help maintain good tilth and high organic matter content.

(2) Controlling erosion through conservation and water management practices so that the quality of the soil is maintained or improved rather than reduced.

(3) Applying lime and fertilizer in accordance with soil test recommendations of the state agricultural experiment station for targeted yields of reference crops.

(4) Using crop residue to the fullest extent practicable to protect and improve the soil.

(5) Following conservation tillage practices were needed to reduce the hazards of soil compaction and erosion.

(6) Using only the crop varieties that are adapted to the climate and the soil.

(7) Controlling weeds, plant diseases, and harmful insects by currently accepted management techniques.

(8) Draining wet areas using surface or subsurface drainage systems so that excess water on or in the soil does not restrict yields of adapted crops.

*310 IAC 12–0.5–95 ''Public Building'' defined*

''Public building'' means a structure that is owned by a public agency or used principally for public business meetings or other group gatherings.

*310 IAC 12–0.5–99 ''Randomly Located'' defined*

''Randomly located'' means the selection of a location that is statistically independent of all previous and future location selections.

*310 IAC 12–0.5–123 ''Support Facility'' defined*

(a) ''Support facility'' means a facility resulting from, or incidental to, an activity identified in section 125(1) of this rule and the area upon which the facility is located.

(b) As used in subsection (a), ''resulting from or incidental to'' connotes an element of proximity to the activity.

(c) A support facility includes the following:

(1) Mine buildings.
(2) Bath houses.
(3) Coal loading facilities.
(4) Coal crushing and sizing facilities.
(5) Coal storage facilities.
(6) Equipment and storage facilities.
(7) Fan buildings.
(8) Hoist buildings.
(9) Sheds, shops, and other buildings.
(10) Facilities used to treat and store water for mine consumption.
(11) Railroads, surface conveyor systems, chutes, aerial tramways, and other transportation facilities, but not including roads.

## 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 Indiana 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 Indianapolis 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 p.m., e.d.t. on June 14, 1995. 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 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.

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**.

*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 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

*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 has 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 States 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)).

*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 corresponding 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 corresponding Federal regulations.

**List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 1995.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 95–13158 Filed 5–26–95; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

**[OPPTS–50582L; FRL–4919–6]**

**RIN 2070–AB27**

### 1,3-Propanediamine, *N,N″*-1,2-Ethanediylbis-, Polymer with 2,4,6-Trichloro-1,3,5-triazine, Reaction Products with *N*-butyl-2,2,6,6-tetramethyl-4-piperidinamine; Proposed Modification of Significant New Use Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to modify the significant new use rules (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 1,3-propanediamine, *N,N″*-1,2-ethanediylbis-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with *N*-butyl-2,2,6,6-tetramethyl-4-piperidinamine, based on a modification to the TSCA 5(e) consent order regulating the substance.

**DATES:** Written comments must be received by EPA on or before June 29, 1995.

**ADDRESSES:** All comments must be sent in triplicate to: TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460. Comments that are confidential must be clearly marked confidential business information (CBI). If CBI is claimed, three additional sanitized copies must also be submitted. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Comments should include the docket control number. The docket control number for the chemical substance in this SNUR is Unit IV. of this preamble contains additional information on submitting comments containing CBI.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special

characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–50582L. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, TSCA Assistance Office (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 20, 1990 (55 FR 33296), EPA issued a SNUR establishing significant new uses for 1,3-propanediamine, *N,N″*-1,2-ethanediylbis-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with *N*-butyl-2,2,6,6-tetramethyl-4-piperidinamine based on the section 5(e) consent order for the substance. Because of additional data EPA has received for this substance, EPA is proposing to modify the SNUR.

## I. Background

EPA is proposing to modify the significant new use requirements for the following chemical substance under 40 CFR part 721, subpart E. In this unit, EPA provides a brief description for the substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the modification of the section 5(e) consent order for the substance, and the CFR citation in the regulatory text section of this proposed rule. Further background information for the substance is contained in the rulemaking record referenced in Unit IV., of this preamble.

### PMN Number P–89–632

*Chemical name:* 1,3-Propanediamine, *N,N″*-1,2-ethanediylbis-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with *N*-butyl-2,2,6,6-tetramethyl-4-piperidinamine

*CAS number*: Not available.

*Effective date of modification of section 5(e) consent order*: September 23, 1994.

*Basis for modification of section 5(e) consent order*: Based on the results of a 90–day oral toxicity study on the PMN substance, the Company petitioned EPA to reconsider the consent order's worker protection and hazard communication requirements. The Company petitioned the Agency to modify the consent order and SNUR to (1) Broaden the choice of workplace protective equipment to include two 21C air-purifying respirators with high efficiency particulate filters and (2) remove ''reproductive effects'' from the list of human health hazards to be included on the Material Safety Data Sheet or label accompanying shipments of the PMN substance. EPA, through written correspondence, negotiations, and meetings with the Company, recalculated the risk assessment of the PMN based on the test data provided by the Company. Based on this risk assessment, the Agency determined that the broader choice of respirators would provide adequate protection against an unreasonable risk of systemic effects to workers who may be exposed to the PMN substance via inhalation. The Agency also believes that there was no evidence of reproductive toxicity in the results of the submitted data. This SNUR had incorrectly listed ''birth defects'' rather than ''reproductive effects'' in the Hazard Communication Program at 40 CFR 721.72. Accordingly, the ''birth defects'' SNUR requirement (§ 721.72(a)(v)) is being removed, effective this modification, and ''reproductive effects'' is being removed from the consent order. Finally, in response to the Company's submission of aquatic toxicity testing protocols to the Agency for review, the Company was informed that such testing would no longer be required and related prohibitions on release of the PMN substance to water would also be removed from the consent order. This action is being taken based on test data on polycationic polymers structurally similar to the PMN substance which have been submitted to the Agency in the intervening period between the December 1989 signature of the consent order and the Company's submission of the aquatic toxicity testing protocols. These test data indicate that the PMN substance, because of its physical/chemical properties (i.e., charge density of 4.8 percent amine nitrogen, low water solubility (<10 mg/L), and does not appear to be self-dispersing in water), will bind quickly to naturally-occurring dissolved organic carbon in surface waters and settle in sediment, where it is not expected to be bioavailable. As a result, the toxicity to aquatic and sediment-dwelling organisms is expected to be mitigated significantly, such that the Agency no longer finds that the PMN substance will pose an unreasonable risk of injury to the environment. Accordingly, the testing requirement for toxicity to aquatic organisms and the associated hazard communication language, prohibition on release to water, and recordkeeping provisions related to these restrictions are also removed by this modification to the consent order. The Agency has determined, therefore, that modifying the consent order and SNUR would not pose an unreasonable risk to human health or the environment.

*CFR citation*: 40 CFR 721.7280.

## II. Objectives and Rationale of Proposing Modification of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this proposed modification, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health and environmental effects of the substance. EPA identified the tests considered necessary to evaluate the risks of the substance and identified the protective equipment necessary to protect any workers who may be exposed to the substance. The basis for such findings is in the rulemaking record referenced in Unit III. of this preamble. Based on these findings, a section 5(e) consent order modification was negotiated with the PMN submitter.

In light of the petition to modify the consent order and SNUR, the 90–day subchronic test, the data on structurally similar polycationic polymers, and the recalculation of the risk assessment of the PMN substance based on information provided by the petitioner, the Agency determined that modifying the consent order and SNUR would not pose an unreasonable risk to human health or the environment. The proposed modification of SNUR provisions for the substance designated herein is consistent with the provisions of the section 5(e) order.

## III. Rulemaking Record

The record for the rule which EPA is proposing to modify was established at OPPTS–50582. This record includes information considered by the Agency in developing this rule (including comments and data submitted electronically as described below) and includes the modification to consent orders to which the Agency has responded with this proposal.

A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center,

Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

### IV. Comments Containing Confidential Business Information

Any person who submits comments claimed as CBI must mark the comments as ''confidential,'' ''trade secret,'' or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

### V. Regulatory Assessment Requirements

EPA is modifying the requirements of the rule by eliminating several requirements. Any costs or burdens associated with the rule will be reduced when the rule is modified. Therefore, EPA finds that no additional assessments of costs or burdens are necessary under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 16, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, it is proposed that 40 CFR part 721 be amended to read as follows:

## PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

**Authority**: 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.7280 by revising paragraphs (a)(2)(i) and (a)(2)(ii), removing paragraphs (a)(2)(iii) and (a)(2)(iv), and revising paragraph (b)(1) to read as follows:

**§ 721.7280 1,3-Propanediamine, *N,N″*-1,2-ethanediylbis-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with *N*-butyl-2,2,6,6-tetramethyl-4-piperidinamine**

(a) * * *

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (b)(concentration set at 0.1 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a) through (f), (g)(1)(iv), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

[FR Doc. 95–13135 Filed 5–26–95; 8:45 am]
BILLING CODE 6560–50–F

## DEPARTMENT OF TRANSPORTATION

## Maritime Administration

## 46 CFR Part 298

**[Docket No. R–154]**

**RIN 2133–AB14**

## Obligations Guarantees; Program Administration

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Extension of comment period.

**SUMMARY:** The Maritime Administration (MARAD) is hereby extending the period for submitting comments on the NPRM that was published on April 26, 1995. The original comment period was to end on May 26, 1995. This rulemaking is intended to improve the administration of the entire Title XI loan guarantee program that is essential to the re-entry of United States shipbuilders into the commercial market. This extension is being granted at the request of the American Shipbuilding Association, which represents shipyards that employ a large percentage of the workers employed in private U.S. shipbuilding facilities and which is vitally interested in the Title XI program.

**DATES:** Written comments are requested and must be received on or before June 13, 1995.

**ADDRESSES:** Comments may be mailed or otherwise delivered to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** David A. Lippold, Examiner, Division of Capital Assets Management, Office of Ship Financing, Maritime Administration, Room 8122, 400 Seventh Street SW., Washington, D.C. 20590. Telephone 202–366–1907.

Dated: May 25, 1995.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 95–13253 Filed 5–26–95; 8:45 am]
BILLING CODE 4910–81–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 25

**[IB Docket No. 95–59; FCC 95–180]**

## Preemption of Local Zoning Regulations

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission has proposed revisions to its rule preempting local regulation of satellite earth stations. These revisions are being proposed in response to two Petitions for Declaratory Ruling filed by Satellite Broadcasting and Communications Association and Hughes Network Systems, Inc. and as a result of the decision of the U.S. Court of Appeals of the Second Circuit where the court invalidated the requirement that satellite-antenna users exhaust all other legal remedies before petitioning the Commission for a declaratory ruling.

The revised rule modifies the exhaustion of remedies requirement to permit Commission interpretation of the rule prior to judicial review; modifies the reasonableness test in the current rule including establishing presumption of unreasonableness; provides a waiver process by which communities may request a waiver of some or all of this rule in recognition of local interests; and provides for immediate relief in particular cases by entertaining petitions for declaratory relief under the current rule on an interim basis pending completion of this rulemaking.

**DATES:** Comments are due by July 14, 1995; reply comments are due by August 15, 1995.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rosalee Chiara, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 739–0730.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making in IB Docket No. 95–59; FCC 95–180, adopted April 27, 1995 and released May 15, 1995. The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

## Summary of Notice of Proposed Rule Making

In 1986, the Commission adopted a rule preempting local regulation of satellite earth stations that differentiated between satellite receive-only antennas and other types of antenna facilities unless the regulations (a) have a reasonable and clearly defined health, safety, or aesthetic objective and (b) do not put unreasonable limitations on, or prevent, reception or impose unreasonable costs on users. The rule also preempted local regulation of satellite transmitting antennas in the same manner except that health and safety regulation was not preempted (47 CFR 25.104). Since that time, consumers, satellite system operators, local governments, and the Commission have gained significant experience working with this rule. Based in part on this experience, the Satellite Broadcasting and Communications Association (''SBCA'') and Hughes Network Systems, Inc. (''Hughes'') filed petitions for declaratory rulings on our satellite-antenna preemption rule. In addition, the U.S. Court of Appeals for the Second Circuit invalidated the requirement that satellite-antenna users exhaust all other legal remedies before petitioning the Commission for relief. *Town of Deerfield, New York* v. *FCC,* 1992 F.2d 420 (2d Cir. 1992) (''*Deerfield*''). In 1993, we sought comment on the SBCA and Hughes petitions, as well as on the appropriate action for the Commission to take in response to the Second Circuit's decision.

Based on the petitions, the comments received in this proceeding, and our experience administering Commission preemption policies since 1986, we tentatively concluded that, in light of the Second Circuit's *Deerfield* decision, we should modify our exhaustion of remedies requirement to permit us to interpret our preemption rule prior to any judicial review. We also tentatively conclude that in order to facilitate application of the Commission's interpretations in varied factual settings, to minimize intrusion upon local prerogatives in land-use regulation, and to promote full and fair competition between satellite services and other means of communication, we must revise the preemption rule itself. Accordingly, we are denying both petitions for declaratory relief and issuing this Notice of Proposed Rulemaking, which proposes changes in § 25.104. In addition, we announce our willingness to entertain petitions for declaratory relief with respect to particular zoning disputes during the pendency of this proceeding.

We also propose revisions of the current rule's ''reasonableness'' test. These include elimination of the requirement that preemptable local ordinance differentiate in the treatment of antennas. In addition, the NPRM proposes changes in how the rule applies to regulations that increase users' costs or diminish reception. The proposed rule also establishes presumptions of unreasonableness for regulations that affect antennas less than one meter in size and those that affect antennas less than 2 meters in size in an area where commercial or industrial use is permitted. The proposals include several other modifications of the rule and also provide that local government can request waivers of the rule under certain circumstances.

We solicit comments from all interested parties, including service providers, equipment manufacturers, consumers, programmers, land-use managers, and other representatives of local governments. A full and complete record in this matter will ensure that our final rule takes into consideration the views of all these persons.

## Ordering Clauses

Accordingly, *it is ordered* That, pursuant to sections 1.4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 303(r) notice is hereby given of the proposed amendments to § 25.104 of the Commission's rules, 47 CFR 25.104, in accordance with the proposals in this Notice of Proposed Rulemaking, and that comment is sought regarding such proposals.

*It is further ordered*. That the petitions for declaratory relief filed by SBCA and Hughes are denied.

*It is further ordered* That the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq*. (1981).

## Administrative Matters

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 14, 1995 and reply comments on or before August 15, 1995. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554.

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

## Initial Regulatory Flexibility Act Statement

As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this

document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

**List of Subjects in 47 CFR Part 25**

Satellites.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

**Proposed Rules**

Part 25 of Title 47 of the Code of Federal Regulations is proposed to be amended, as follows:

## PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

**Authority:** Sections 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 416–427, 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Section 25.104 is revised to read as follows:

**§ 25.104 Preemption of local zoning of earth stations.**

(a) Any state or local land-use, building, or similar regulation that substantially limits reception by receive-only antennas, or imposes substantial costs on users of such antennas, is preempted unless the promulgating authority can demonstrate that such regulation is reasonable in relation to:

(1) A clearly defined, and expressly stated health, safety, or aesthetic objective; and

(2) The federal interest in fair and effective competition among competing communications service providers.

(b) Any regulation covered by paragraph (a) of this section shall be presumed unreasonable if it affects the installation, maintenance, or use of:

(1) A satellite receive-only antenna that is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by local land-use regulation: or

(2) A satellite receive-only antenna that is one meter or less in diameter in any area.

(c) Any presumption arising from paragraph (b) of this section may be rebutted upon a showing that the regulation in question:

(1) Is necessary to accomplish a clearly defined and expressly stated health or safety objective;

(2) Is no more burdensome to satellite users than is necessary to achieve the health or safety objective;

(3) Is specifically applicable to antennas of the class mentioned in paragraph (b) of this section.

(d) Regulation of satellite transmitting antennas is preempted to the same extent as provided in paragraph (a) of this section, except that state and local health and safety regulations relating to radio frequency radiation of transmitting antennas are not preempted by this rule.

(e) Any person aggrieved by the application or potential application of a state or local zoning or other regulation in violation of paragraph (a) of this section may, after exhausting all nonfederal administrative remedies, file a petition with the Commission requesting a declaration that the state or local regulation in question is preempted by this section. Nonfederal administrative remedies, which do not include judicial appeals of administrative determinations, shall be deemed exhausted when

(1) The petitioner's application for a permit or other authorization required by the state or local authority has been denied and any administrative appeal has been exhausted;

(2) The petitioner's application for a permit or other authorization required by the state or local authority has been pending with that authority for ninety days;

(3) The petitioner has been informed that a permit or other authorization required by the state or local authority will be conditioned upon the petitioner's expenditure of an amount greater than the aggregate purchase and installation costs of the antenna; or

(4) A state or local authority has notified the petitioner of impending civil or criminal action in a court of law and there are no more nonfederal administrative steps to be taken.

(f) Any state or local authority that wishes to maintain and enforce zoning or other regulations inconsistent with this section may apply to the Commission for a full or partial waiver of this section. Such waivers may be granted by the Commission in its sole discretion, upon a showing by the applicant that local concerns of a highly specialized or unusual nature create an overwhelming necessity for regulation inconsistent with this section. No application for waiver shall be considered unless it includes the particular regulation for which waiver is sought. Waivers granted according to this rule shall not apply to later-enacted or amended regulations by the local authority unless the Commission expressly orders otherwise.

[FR Doc. 95–13116 Filed 5–26–95; 8:45 am]

BILLING CODE 6712–01–M

## 47 CFR Parts 80, 90, and 95

**[WT Docket No. 95–56, FCC 95–174]**

## Low Power Radio and Automated Maritime Telecommunications Systems Operations in the 216–217 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission had adopted a Notice of Proposed Rule Making which seeks to permit the shared use of the 216–217 MHz band, on a secondary, non-interference basis, for a new Low Power Radio Service to include law enforcement tracking systems, auditory assistance devices for the hearing-impaired, and health care assistance devices for disabled and ill persons. Further, the Commission seeks to permit Automated Maritime Telecommunications Systems (AMTS) coast stations to also share this band on a secondary, non-interference basis for point-to-point network control communications. This action stems from the Commission's Notice of Proposed Rule Making and Notice of Inquiry in PR Docket 92–257 which sought to compile a record of viable, alternative uses for this one megahertz of maritime mobile spectrum. Thus, the proposed rules should aid law enforcement efforts in the recovery of stolen goods, further the goals of the Americans With Disabilities Act of 1990 (ADA), increase access to educational and health care opportunities for persons with disabilities and illnesses, increase the number of channels available to the AMTS for operational control communications, and promote the efficient use of maritime spectrum.

**DATES:** Comments must be filed on or before July 18, 1995, and reply comments must be filed on or before August 17, 1995.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Roger Noel of the Wireless Telecommunications Bureau at (202) 418–0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, WT Docket No. 95–56, FCC 95–174, adopted April 25, 1995, and released, May 16, 1995. The

full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW. Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Washington, DC 20037, telephone (202) 857–3800.

**Summary of Notice of Proposed Rule Making**

1. The Commission initiated the instant proceeding to explore alternative uses of the 216–217 MHz band. Presently, this one megahertz of spectrum is allocated on a primary basis to the AMTS. In 1992, however, the Commission reallocated one megahertz of radio spectrum from the AMTS to the Interactive Video and Data Service (IVDS), effectively ''orphaning'' the 216–217 MHz band. Thus, in PR Docket 92–257, the Commission sought alternative uses for the spectrum that would not cause harmful interference to adjacent Television Channel 13 operations 9210–216 MHz).

2. The Commission proposes to permit a new Low Power Radio Service and AMTS coast station to share this one megahertz of spectrum on a secondary basis. Low Power Radio Services would include law enforcement tracking system, auditory assistance devices for the hearing impaired, and health care assistance devices for disabled and ill persons. A law enforcement tracking system includes extremely small radio transmitters attached to money and goods that are likely to be stolen. When activated, the small transmitters emit a low power signal that can be tracked by direction finding equipment, allowing authorities to quickly recover the stolen money or goods. An auditory assistance system consists of a short range transmitter and special receivers that allow persons with hearing disabilities to enjoy educational or entertaining audio presentations. Similarly, low power health care aids could be used for short range, one-way medical telemetry. Finally, AMTS coast stations could utilize highly directional antennas to transmit network control communications, thereby increasing system efficiencies.

3. There are forty, 25 kHz channels available in the 216–217 MHz band. The Commission proposes to allocate thirty channels (216.0125–216.7375 MHz) to the Low Power Radio Service and ten channels (216.7625–216.9875 MHz) for AMTS point-to-point communications. The twenty channels closest to TV Channel 13 would be limited to 100 milliwatts transmitter output power, and the other twenty channels would be limited to 1 watt. The Low Power Radio Service (excluding two channels set aside exclusively for law enforcement tracking systems) would be administered under Part 95 of the Commission's Rules, 47 CFR part 95. The exclusive tracking system channels would be administered under the Police Radio Service in Part 90. Further, the AMTS channels would be administered under the maritime service rules in Part 80.

4. Under the proposed rules, authorizations in the Low Power Radio Service would be granted based on Metropolitan Statistical Areas (MSAs) and Rural Statistical Areas (RSAs). The Commission did not propose to place a limit on the number of licensees per MSA and RSA or the total number of licenses a single entity could obtain. AMTS coast stations would simply add the new channels to their current station authorization. The Commission seeks specific comments concerning the proposed rule amendments.

5. Initial Regulatory Flexibility Analysis

*Reason for Action*

The Commission proposes to allow low power devices to share Automated Maritime Traffic System frequencies in the 216–217 MHz band.

*Objectives*

We seek to make better use of currently unused portions of the spectrum while taking advantage of alternative low power technologies.

*Legal Basis*

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

*Reporting, Recordkeeping and Other Compliance Requirements*

Our proposed addition of 47 CFR 95.1031 would require the low power transmitters to be type accepted by the Commission.

*Federal Rules Which Overlap, Duplicate or Conflict with These Rules*

None.

*Description, Potential Impact, and Small Entities Involved*

Allowing low power devices to be licensed in the 216–217 MHz band would use the radio spectrum more efficiently, assist law enforcement organizations, and facilitate implementation of the provisions of the Americans with Disabilities Act of 1990.

*Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives*

None.

**Lists of Subjects**

*47 CFR Part 80*

Communications equipment, Radio, Reporting and recordkeeping requirements.

*47 CFR Part 90*

Communications equipment, Radio, Reporting and recordkeeping requirements.

*47 CFR Part 95*

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95–13115 Filed 5–26–95; 8:45 am]

BILLING CODE 6712–01–M

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 580

## Petition for Rulemaking; Iowa Automobile Dealers Association

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition by the Iowa Automobile Dealers Association to amend the provision of the agency's Odometer Disclosure regulations (49 CFR part 580) requiring both the buyer and seller of a vehicle to print their names, along with their written signatures on the odometer statements made on the vehicle title in connection with the transfer of ownership of the vehicle. 49 CFR 580.5(c). The petition is denied because the agency finds that the hand-printing requirement serves a law enforcement need and because the petitioner cited no particular burden arising from the requirement.

**FOR FURTHER INFORMATION CONTACT:**

Eileen T. Leahy, Attorney, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW., Room 5219, Washington, DC 20590; 202–366–5263.

**SUPPLEMENTARY INFORMATION:**

## Background

Chapter 327 of Title 49 of the United States Code (formerly Title IV of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1981–1991) (''the Act'') sets forth certain requirements concerning odometers in motor vehicles. Among other things, the Act prohibits disconnecting, resetting, or altering motor vehicle odometers and requires the execution of an odometer disclosure statement incident to the transfer of ownership of a motor vehicle. The Act also subjects violators to civil and criminal penalties, and provides for enforcement through civil action by the United States in Federal courts (for injunctive relief), by State attorneys general (for damages and injunctive relief), and by private individuals (for damages). The provisions requiring odometer disclosure statements to be included on vehicle titles were added by the Truth in Mileage Act of 1986 (Pub. L. 99–579) (''TIMA''), and reflect Congress' intent to address the growing national problem of odometer tampering in motor vehicles.

Section 32705 of the title 49 directs the Secretary of Transportation to promulgate rules governing the making of odometer disclosure statements. In accordance with that mandate, NHTSA published a regulation (49 CFR part 580) which requires, in connection with the transfer of ownership of a motor vehicle, that each transferor must discloses the mileage to the transferee in writing on the title (or in some cases on the document being used to reassign the title). The regulation details the minimum contents of the disclosure, requires the disclosure to be signed by both the transferor and the transferee, and provides that no person shall sign the disclosure statement as both the transferor and transferee in the same transaction, except in limit circumstances.

The regulation requires that the handwritten signatures of both the transferor and transferee be accompanied by their respective printed names. 49 CFR 580.5(c), (f). In both the preamble to the rule promulgating 580.5 and subsequent written interpretations, the agency has stated that the printed name requirement means that the name must be entered by hand by the same person who signed the form. 53 FR 29470 (Aug. 5, 1988).

## The Petition

By letter of October 4, 1994, petitioner Iowa Automobile Dealers Association (hereinafter petitioner) asked NHTSA to change the requirement that the transferee and transferor hand print their names on the odometer disclosure. Because this requirement is contained in the regulation, and therefore could only be amended by rulemaking, the agency decided to treat petitoner's letter as a request for rulemaking. The petition does not cite any burden that requirement imposes on petitioner or its members as a basis for the change it requests. The only concern expressed by petitioner is that when a state that enforces the requirement sends back to an out-of-state dealer a title on which the transferor's name that has not been hand-printed, the dealer will print the transferor's name rather than sending it back to the seller to have the name hand-printed. This practice, as petitioner notes, violates NHTSA's regulation.

## Discussion

When it adopted the printed name requirement, the agency stated that it is needed because ''it is helpful in the course of an investigation (of odometer fraud) to identify the person signing the statement where signatures are difficult to read.'' 53 FR 29470. In subsequent interpretations, the agency has further explained the necessity of having the names printed by hand rather than by electronic or mechanical means.

The hand-printing requirement enables investigators to perform handwriting analysis to identify the signers of the disclosure in those instances in which the written signature is not sufficiently legible to provide a sample adequate for analysis. It is known to the agency that it is a common practice for individuals involved in odometer fraud schemes to transfer motor vehicle titles to automobile dealers and individuals without their knowledge, to make it appear that the other person or dealer was responsible for rolling back the odometer. In many cases, the other dealer or individual does not exist. In these instances, the perpetrators forge the signatures on the odometer disclosure statement, taking care that the signatures on the odometer disclosure and title transfer documents contain few or no characteristics or individualities for a handwriting analyst to use to identify the perpetrator as the actual signer. Commonly, the cursive ''signature'' in such cases will consist of nothing more than a curve or straight line.

In such situations, the cursive ''signature'' alone is obviously useless to the handwriting analyst. But analysts are able to use the printed name, either alone or in combination with the cursive signature, to establish proof of the identity of the signer. This is because it is impossible to hand-print letters without distinguishing characteristics or individualities, which are the essential elements used by handwriting analysts to prove the true identity of a writer.

From its long experience in the investigation of odometer fraud, the agency is aware of how common it is for the perpetrators to sign disclosure and title documents illegibly to avoid detection. Therefore, the ability to identify signers by handwriting analysis is critical to the Government's ability to investigate and prosecute cases of odometer fraud. This essential tool would be lost if the agency were to drop the requirement for hand-printed names and permit use of mechanical or electronic printing.

The importance of having the proper tools available for successful prosecution of those responsible for odometer fraud cannot be overstated. There were an estimated 12 million used cars sold in 1993. Thus, at least 24 million persons were required to sign and hand-print their names as either buyer or seller in these transactions. During 1993, 48 individuals were convicted of odometer fraud in the Federal courts alone. These cases were prosecuted by the United States Department of Justice (USDOJ). The USDOJ concentrates its criminal prosecution efforts on large-scale, interstate odometer tampering schemes. NHTSA estimates that the 48 individuals convicted of odometer fraud in Federal court in 1993 were responsible for the odometers being rolled back on more than 40 thousand vehicles, accounting for approximately $160 million in consumer fraud.

In almost all cases that go to a grand jury, the Federal prosecutors obtain handwriting and handprinting exemplars. For cases that go to trial, this type of evidence is nearly always available if needed. There was no trial in most of the 48 Federal cases resulting in convictions in 1992 because the defendants entered guilty pleas. It is not possible to measure precisely the role of handwriting analysis based on handprinting in either the decisions to plead guilty or the fact-finder's decisions to find the defendant guilty. Nevertheless, the frequency with which perpetrators of odometer fraud attempt to hide their identity by using a cursive signature with no identifying characteristics strongly suggests that the availability of handwriting analysis often would play a decisive role in a defendant's decision whether or not to go to trial, and in a judge's or jury's decision to convict.

In addition to the cases prosecuted by the USDOJ in Federal court, there were numerous criminal and civil convictions in odometer fraud cases in State and local courts. For instance, the Iowa Attorney General's office referred 30 odometer fraud cases to County Attorneys for prosecution, and the California Department of Motor Vehicles reported 660 convictions for odometer fraud in 1993. These figures represent only a fraction of the total number of odometer fraud cases prosecuted nationwide.

Petitioner has cited no burden that the hand-printing requirement imposes on itself or its members. The only concern it expresses is that a dealer that receives a title from state authorities who have rejected it because of failure to meet the hand-printing requirement will hand-print the name of the person from whom it purchased the vehicle rather than sending it back to that person to hand-print their name. This practice is of concern to NHTSA because it is a violation of its regulations. However, the better solution to the problem seems to be to educate dealers on the importance of obtaining hand-printed names in the first instance, rather than dispensing with the requirement altogether. Dealer organizations such as that represented by petitioner can play an important role in ensuring that dealers are fully informed of the requirements of the Federal odometer disclosure law.

For the foregoing reasons, the petition is denied.

Issued on: May 24, 1995.

**John Womack,**

*Acting Chief Counsel.*

[FR Doc. 95–13167 Filed 5–26–95; 8:45 am]

**BILLING CODE 4910–59–M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 625

**[Docket No. 950522140–5140–01; I.D. 050595E]**

**RIN 0648–XX22**

### Summer Flounder Fishery; 1995 Recreational Fishery Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** NMFS issues this proposed rule to amend the regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule proposes season dates, a possession limit, and a minimum fish size for the 1995 recreational fishery. The recreational season would be open from January 1 through December 31, with a possession limit of 6 fish per person and a minimum fish size of 14 inches (35.6 cm). The proposed 1995 season, possession limit, and minimum fish size are specified to achieve the 1995 coastwide recreational harvest limit, which is 7.8 million lbs (3.5 million kg).

**DATES:** Public comments are invited through June 23, 1995.

**ADDRESSES:** Comments should be sent to, and copies of the environmental assessment (EA) prepared for the 1995 summer flounder specifications are available from the Regional Director, NMFS, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Hannah Goodale, 508-281-9101.

**SUPPLEMENTARY INFORMATION:**

Section 625.20 of the regulations implementing the FMP outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder fishery. The Summer Flounder Monitoring Committee (Committee), made up of representatives from the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council (Council), the New England Fishery Management Council, and NMFS, is required to review, on an annual basis, scientific and other relevant information and to recommend a quota and other restrictions necessary to achieve a fishing mortality rate of 0.53 in 1993 through 1995, and 0.23 in 1996 and thereafter. This schedule of fishing mortality rates is mandated by the FMP to prevent overfishing and to rebuild the summer flounder resource. The Committee reviews the following information annually: (1) Commercial and recreational catch data; (2) current estimates of fishing mortality; (3) stock status; (4) recent estimates of recruitment; (5) virtual population analysis, a method for analyzing fish stock abundance; (6) levels of regulatory noncompliance by fishermen or individual states; (7) impact of fish size and net mesh regulations; (8) impact of gear, other than otter trawls, on the mortality of summer flounder; and (9) other relevant information. Pursuant to § 625.20, after this review the Committee recommends management measures to ensure achievement of the appropriate fishing mortality rate. These measures include: (1) Commercial quota, (2) commercial minimum fish size, (3) minimum mesh size, (4) recreational possession limit within the range of 0 to 15 fish per person per day, (5) recreational minimum fish size, (6) recreational season, and (7) restrictions on gear other than otter trawls.

Measures (1), (2), (3), and (7) above were implemented on February 10, 1995 (60 FR 8958, February 16, 1995). The management measures contained in the final specifications were: (1) A coastwide commercial quota of 14.7 million lbs (6.7 million kg), (2) a coastwide recreational harvest limit of 7.8 million lbs (3.5 million kg), (3) no change from the present minimum commercial fish size of 13 inches (33 cm), and (4) no change in the present minimum mesh-size restriction of 5½-inch diamond (14.0 cm) or 6-inch square (15.2 cm).

The recreational season, possession limit, and minimum size were not established as part of the final specifications because recreational catch data for 1994 was not available for the Committee's use in evaluating the effectiveness of the 1994 season and possession limit. Shortly after this data became available, the Committee met to review the 1994 data and to recommend measures for 1995. The Committee recommended elimination of the closed season, an individual possession limit of 6 fish per person, and a minimum fish size of 14 inches (35.6 cm).

These recommendations were adopted by the Council's Demersal Species Committee on March 14, 1995, but the possession limit was revised by the ''full'' Council at its meeting of March 15–16, 1995. The Council's recommendation to the Director, Northeast Region, NMFS (Regional Director) was for elimination of the closed season in 1995, an individual possession limit of 8 fish per person, and a minimum fish size of 14 inches (35.6 cm).

On April 12, 1995, the Regional Director disapproved the Council's recommendation, citing inconsistency with the Council's earlier recommendation to the Regional Director to take all appropriate actions to ensure that the target fishing mortality rate is not exceeded in 1995. The Regional Director informed the Council that their recommendation, being less restrictive than measures imposed in 1994, was inconsistent with their earlier expressed concern. The Regional Director invited the Council to reconsider and develop a proposal that would address the inconsistency without compromising conservation.

On April 19, 1995, the Council adopted the original recommendation of the Committee and submitted it to the Regional Director for review. This recommendation, which is proposed in this action, contains the following measures: Elimination of the closed season, an individual possession limit of 6 fish per person, and a minimum fish size of 14 inches (35.6 cm).

Upon publication of the final rule, the recreational fishing measures for 1995 that are contained in the rule are likely to become effective with less than a 30-day delay in effective date, because the season has already started and measures that would be imposed either would remove a restriction or do not require time to come into compliance.

**Classification**

This action is authorized by 50 CFR part 625 and complies with the National Environmental Policy Act. An EA, which analyzed the impacts and consequences of the alternative harvest levels, was prepared as part of the rulemaking that established the 1995 fishery specifications, including the coastwide recreational harvest level. This proposed rule contains the recreational season and possession limit that can best achieve the specified harvest level, and has no effects that were not previously analyzed in the EA.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, such as the charter boats and head boats that serve the recreational fishery. The combination of management measures (minimum fish size, lack of a closed season, and the six-fish possession limit) should allow recreational fishermen to harvest summer flounder at a level close to, or slightly below the coastwide harvest limit for this fishery. As a result, a regulatory flexibility analysis was not prepared.

**List of Subjects in 50 CFR Part 625**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 23, 1995.

**Richard H. Schaefer,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes that 50 CFR part 625 be amended to read as follows:

## PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

**Authority:** 16 U.S.C. 1801, *et seq.*

2. Section 625.22 is revised to read as follows:

### § 625.22 Time restrictions.

Vessels that do not possess a moratorium permit under § 625.4 and fishermen subject to the possession limit may fish for summer flounder during the period January 1 through December 31. This time period may be adjusted pursuant to the procedures in § 625.20.

3. In § 625.25, the first sentence of paragraph (a) is revised to read as follows:

### § 625.25 Possession limit.

(a) No person shall possess more than six summer flounder in or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a moratorium permit under § 625.4. * * *

* * * * *

[FR Doc. 95–13097 Filed 5–24–95; 12:23 pm]
BILLING CODE 3510–22–F

# Notices

Federal Register
Vol. 60, No. 103
Tuesday, May 30, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Aspen Highlands EIS, Ski Area Improvement and Expansion Analysis, White River National Forest; Pitkin County, Colorado

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** The U.S. Department of Agriculture, Forest Service will prepare an Environmental Impact Statement to disclose effects of alternative decisions it may make to allow upgrading and/or expansion of recreational facilities within the existing permit boundaries of the Aspen Highlands Ski Area, on the Aspen Ranger District of the White River National Forest.

**DATES:** Written comments concerning the scope of the analysis should be received on or before July 28, 1995.

**ADDRESSES:** Send written comments to Rob Iwamoto, Aspen District Ranger, White River National Forest, 806 West Town, Aspen, CO 81611. Veto J. LaSalle, Forest Supervisor, White River National Forest, is the Responsible Official for this EIS.

**FOR FURTHER INFORMATION CONTACT:** Arthur Bauer, Project Coordinator, Aspen Ranger District—(970) 544–0082 or (303) 925–3445.

**SUPPLEMENTARY INFORMATION:** On May 12, 1995, Special Use Permittee Aspen Skiing Company submitted a proposal to amend their Master Development Plan for the Aspen Highlands Ski Area. The scope of the proposal includes replacing two lifts with a new moderate capacity, high speed quad chairlift; extending a catwalk to serve additional expert terrain within the Loge Bowl area; adding a new lift and additional terrain to the Steeplechase area; replacing the existing mid-mountain restaurant with a new restaurant in the same location; relocating the Ski Patrol Headquarters; adding two new ski lifts into two separate Bowl Areas; and the addition of approximately 300 acres of snowmaking. Actions proposed on National Forest System Lands fall within the existing permit area boundary. The applicant's proposal also would involve development on adjacent private lands which have land use jurisdictions outside of Forest Service control.

The applicant's proposal is consistent with governing programmatic management direction contained in the *Rocky Mountain Regional Guide* and FEIS for Standards and Guidelines (1983) and in the final EIS and *Land and Resource Management Plan for the White River National Forest* (''LMP,'' 1984). These documents direct that first priority for ski area development is the expansion of existing areas. The LMP allocated the proposed expansion area to downhill skiing use and assigned a potential development capacity of 4,500 skiers-at-one-time (SAOT). The site-specific environmental analysis provided by the EIS will assist the Responsible Official in determining which improvements are needed to meet the following objectives: Accommodate predicted short and long-term demand for skiing; continue the supply of high quality recreational opportunities at Aspen Highlands; maintain the attractiveness and viability of the permittee's operation; and, sustain the resource uses and amenity values which local communities depend on and enjoy. Alternative development plans will be carefully examined for their potential impacts on the physical, biological, and social environments so that tradeoffs are apparent to the decisionmaker.

Public participation will be fully incorporated into preparation of the EIS. The first step is the scoping process, during which the Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or groups who may be interested or affected by the proposed action. This information will be used in preparing the EIS.

Several public meetings will be held in the Aspen, CO area throughout the public involvement process. The exact dates and locations of these meetings will be published in local newspapers at least two weeks in advance. The first scoping meeting is currently slated for late-June.

Preliminary issues include the potential effects of proposed actions and related off-site developments on the following elements of the biological, physical and social environments: Wildlife populations, big game habitats, and overall biological diversity; vegetation, wetlands and riparian areas; streamflow and fisheries habitat; scenic quality; air quality; noise levels; wilderness resource values; four-season recreational resource opportunities; surface erosion and landslide hazards; quality of and capacity for downhill skiing; traffic and transportation systems; the cost and supply of public utilities and services; local commercial establishments; housing availability and cost; personal income and revenue base to local and state governments; development in surrounding areas; health and human safety; and, the overall quality of life for local residents. The direct, indirect, cumulative, short-term, and long-term aspects of impacts on national forest lands and resources, and those of connected or related effects off-site, will be fully disclosed.

Preliminary alternatives include the applicant's proposal (described above) and No Action, which in this case is continuing current administration of the ski area. Additional alternatives will be developed after the significant issues are clarified and management objectives carefully defined. The Responsible Official will be presented with a range of feasible and practical alternatives.

Permits and licenses required to implement the proposed action will, or may, include the following: Amended Special Use Permit from the Forest Service; Section 404 Permit from the Army Corps of Engineers; consultation with U.S. Fish and Wildlife Service for compliance with section 7 of the Threatened & Endangered Species Act; certification from the Colorado Department of Health Air Pollution Control Division that air quality standards would be met; certification from the Water Quality Control Division for Section 401 compliance and permit for Pollution Discharge Elimination System, certification from the Tram Board; review from the Colorado Department of Natural Resources Division of Wildlife, Colorado Geologic Survey, Colorado Natural Area Office, Water Conservation Board, and Division

of Water Resources; approval from Colorado Department of Highways for any state highway redesign or access improvement; clearance from the Colorado State Historic Preservation Office; and various review, zoning, subdivision and permit approvals from Pitkin County and the Town of Snowmass Village.

The Forest Service predicts the draft environmental impact statement will be filed during the winter of 1995/96 and the final environmental impact statement during the summer of 1996.

The Forest Service predicts the draft environmental impact statement will be filed during the winter of 1995/96 and the final environmental impact statement during the summer of 1996.

The Forest Service will seek comments on the draft environmental impact statement for a period of 45 days after its publication. Comments will then be summarized and responded to in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 is addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Anqoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: May 23, 1995.

**Veto J. LaSalle,**

*Forest Supervisor.*

[FR Doc. 95–13112 Filed 5–26–95; 8:45 am]

**BILLING CODE 3510–11–M**

## Rural Housing and Community Development Service

### Industry Interface Pilot

**AGENCY:** Rural Housing and Community Development Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Housing and Community Development Service (RHCDS) announces a pilot test of software to provide an automated interface between RHCDS and borrowers with Multiple Family Housing (MFH) projects to exchange MFH tenant information. The objective of the automated interface is to dramatically reduce reporting burden and streamline internal processing.

**DATES:** Borrowers who have projects in the pilot servicing offices and wish to participate in the pilot should contact their servicing office after June 1, 1995. Servicing offices participating in the pilot will receive informational packages for distribution by June 1, 1995.

**ADDRESSES:** RECD servicing offices participating in the pilot are as follows:

RECD State Office, 3003 North Central Avenue, Suite 900, Phoenix, Arizona 85012.

RECD District Office, 4362 North Lake Boulevard, Suite 105, Palm Beach Gardens, Florida 33410.

RECD District Office, 3260 Eagle Park Drive, Suite 101C, Grand Rapids, Michigan 49505.

RECD District Office, 1600 Valley River Drive, Suite 270, Eugene, Oregon 97401.

RECD District Office, PO Box Drawer 1328, 1809 Furgeson Road, Suite E, Mt. Pleasant, Texas 75456.

**FOR FURTHER INFORMATION CONTACT:**

Larry Anderson, Senior Loan Specialist, Multiple Family Housing Servicing and Property Management Division (MHSPM), RHCDS, Room 5321 South Agriculture Building, Washington, DC 20250, telephone (202) 720–1611. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** The pilot test is scheduled to begin during June 1995, and will be conducted in five local servicing offices. The pilot will determine if software developed by RHCDS can effectively transmit tenant data from borrower management sites to the servicing office. No ending date for the pilot has been established at this time.

During a later phase of the pilot, software developed by private vendors will be permitted to transmit information through the pilot system. To assist private software developers who wish to participate in the second phase of the pilot, the RHCDS National Office will provide a copy of the official information transmission format upon request. On June 1, 1995, at 2:00 PM, a meeting with RHCDS and interested software and housing industry representatives will be held in Room 0204, South Agriculture Building, 14th and Independence Avenue, Washington, DC, to discuss the pilot and other automation issues. Any individual or group interested in MFH automation is welcome to attend.

During the pilot period, RHCDS will work closely with borrowers to assure the successful completion of the pilot. Administrative flexibility will be provided to accommodate tenant data submission in a pilot environment. Borrowers interested in participating in the pilot may contact the appropriate servicing office address above for more information.

Dated: May 19, 1995.

**Maureen Kennedy,**

*Acting Administrator, Rural Housing and Community Development Service.*

[FR Doc. 95–13162 Filed 5–26–95; 8:45 am]

**BILLING CODE 3410–07–M**

## Rural Utilities Service

## Pioneer Electric Cooperative, Inc.; Finding of No Significant Impact

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of finding of no significant impact.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to the potential environmental impact related to the construction of a new headquarters facility proposed by Pioneer Electric Cooperative, Inc. (Pioneer), of Ulysses, Kansas. The proposed project will be located on a site 0.5 miles west of the City of Ulysses near the intersection of State Highway 160 and County Road I in Grant County, Kansas.

RUS has concluded that the environmental impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

**FOR FURTHER INFORMATION CONTACT:** Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, Ag Box 1569, South Agriculture Building, RUS, Washington, DC 20250, telephone (202) 720–1784.

**SUPPLEMENTARY INFORMATION:** RUS, in accordance with its environmental policies and procedures, required that Pioneer prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from Federal, State and local agencies and the public, has been adopted as RUS' Environmental Assessment for the project in accordance with 7 CFR 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, floodplains, wetlands, important farmland, and federally listed or proposed for listing threatened or endangered species or their critical habitat.

Alternatives considered to the project included no action, expansion of Pioneer's existing headquarters facility, and alternative construction sites. RUS has considered these alternatives and concluded that the project as proposed meets the needs of Pioneer to reduce overcrowding at the present facility and provide increased space for equipment storage.

Copies of the BER and FONSI are available for review at RUS at the address provided herein; or can be reviewed at or obtained from the offices of Pioneer, West Highway 160, Ulysses, Kansas 67880, telephone (316) 356–1211, during normal business hours.

Dated: May 22, 1995.

**Adam M. Golodner,**

*Deputy Administrator, Program Operations.*

[FR Doc. 95–13163 Filed 5–26–95; 8:45 am]

BILLING CODE 3410–15–M

## DEPARTMENT OF COMMERCE

## International Trade Administration

## Export Trade Certificate of Review

**ACTION:** Notice of Application.

**SUMMARY:** The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the application and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as ''Export Trade Certificate of Review, application number 95–00003.'' A summary of the application follows.

*Summary of the Application:*

*Applicant:* U.S. Textile Export Co., Inc. d/b/a TEXPORT, Inc., 510 King Street, Suite 415, Alexandria, Virginia 22314, Contact: Charles V. Bremer, Telephone: 202–862–0533,
Application No.: 95–00003
Date Deemed Submitted: May 15, 1995.

Members (in addition to applicant): Arkwright Mills, Spartanburg, SC; Armtex, Inc., Pilot Mountain, NC; Cleyn & Tinker, Inc., Huntingdon, Quebec, Canada; CMI Industries, Inc., Columbia, SC; Copland, Inc., Burlington, NC; Cranston Print Works Company, Cranston, RI; Greenwood Mills, Inc., Greenwood, SC; Hamrick Mills, Gaffney, SC; Inman Mills, Inman, SC; Mayfair Mills, Inc., Arcadia, SC; The New Cherokee Corporation, Spindale, NC; Southern Mills, Inc., Union City, GA; Spartan Mills, Inc., Spartanburg, SC.

U.S. Textile Export Co., Inc. (''TEXPORT Inc.''), seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

### Export Trade

*1. Products*

Broadwoven Fabric, Cotton (SIC 2211); Broadwoven Fabric, Man-made Fiber (SIC 2221); Broadwoven Fabric, Wool (SIC 2231); Narrow woven fabric and other small wares (SIC 1224); Weft Knit Fabric (SIC 2257); Warp Knit Fabric (SIC 2258); Finishers of Broadwoven Fabric of Cotton (SIC 2261); Finishers of Broadwoven Fabrics of Man-made Fiber (SIC 2262); Nonwoven Fabrics (SIC 2297).

*2. Export Trade Facilitation Services (as they relate to the Export of Products and Services)*

Export Trade Facilitation Services including professional services in the areas of government relations, foreign trade and business protocol, marketing, marketing research, negotiations, shipping, export management, documentation, insurance and financing.

### Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the

District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

**Export Trade Activities and Methods of Operation**

1. To engage in Export Trade in the Export Markets, as an Export Intermediary, TEXPORT, Inc. may:
   a. Solicit orders from foreign customers.
   b. Arrange for transportation of merchandise sold from Members' plants, warehouses, etc. to cutomers' premises.
   c. Arrange for financing of sales, collect accounts receivable and disburse funds to Members.
   d. Arrange for customs clearance and, where applicable and permitted, assist Members in filing claims for drawback of duties paid on imported raw materials.
   e. Collaborate with one or more of its Members or on its own, to conduct market research in foreign markets; purchase or commission studies and reports of foreign markets; participate in trade shows and missions; secure and provide advertising and promotional services; engage legal, accounting, customs brokerage and other services required to facilitate the applicant's ongoing business activity; and solicit, from private or public sector sources, monetary grants and funding to assist the applicant in the conduct of its business.
   f. Quote prices to potential customers from Members' price lists. Members will agree that selling prices may be negotiated between applicant and customers with Member's prior approval.
   g. Confer, from time to time, with one or more of its Members regarding a potential sale with regard to the quantities, price, delivery schedule and other pertinent matters pertaining thereto. Members may agree to share in a sale or submit joint bids. The applicant and one or more of its Members may refuse to quote prices or solicit or make a sale for reasons they deem fit.
   h. Require that active membership in the American Textile Manufacturers Institute be a condition for membership in TEXTPORT, Inc.
   i. Receive a commission on final sales by the Member(s) for whose account the sale was made, the percentage of such commission to be mutually agreed between applicant and Member(s).
2. It will be agreed that the applicant will not divulge the prices or quantities of goods sold for any Member's account to other Members but reserves the right to divulge the total of sales commissions paid by an individual Member during any fiscal year.

**Definitions**

1. ''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.
2. ''Member'' means a person who has a membership in TEXPORT, Inc. and who has been certified as a ''Member'' within the meaning of Section 325.2(1) of the Regulations.

Dated: May 23, 1995.

**W. Dawn Busby,**

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 95–13101 Filed 5–26–95; 8:45 am]

BILLING CODE 3510–DR–P

## National Oceanic and Atmospheric Administration

**[I.D. 051195B]**

## North Pacific Fishery Management Council; Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and its advisory bodies will meet during the month of June 1995, according to the schedule published below.

**FOR FURTHER INFORMATION CONTACT:** North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

**SUPPLEMENTARY INFORMATION:**

**Scientific and Statistical Committee (SSC)**

The SSC will meet on June 8–9, 1995, at the Holiday Inn, 239 W. 4th Avenue, in the Ketchikan Room, Anchorage, AK. The meeting will begin at 8 a.m., and will end at approximately 5 p.m., each day. Its agenda is as follows:

1. Review revised analysis for extension of the inshore/offshore allocations and pollock community development quotas;
2. Review revised analysis for the license limitation program for the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish and crab fisheries;
3. Review of proposed observer specifications for 1996;
4. Review of Scallop Fishery Management Plan and proposed amendments;
5. Review halibut discard mortality rates used for Prohibited Species Cap attainment;
6. Review of trawl closure areas in Bristol Bay to reduce red king crab bycatch; and
7. Review electronic reporting requirements for fishing vessels/processors.

**Advisory Panel (AP)**

The AP will meet on June 11–15, 1995, at the Grand Aleutian Hotel in Dutch Harbor, AK. The AP meeting will begin at 8 a.m., and will end at approximately 5 p.m, each day. The agenda will be the same as that for the Council (see following section).

**North Pacific Fishery Management Council (Council)**

The Council will meet on June 13–18, 1995, at the Grand Aleutian Hotel in Dutch Harbor, AK. The meeting will begin at 8 a.m., and will end at approximately 5 p.m., each day. There may be other workgroup and/or committee meetings held during the week. Notice of meetings will be posted. The Council will address, and may take appropriate action on, the following agenda items, time permitting:

1. Reports from NMFS on current status of fisheries and regulations, from the Alaska Department of Fish and Game on domestic fisheries, and from NMFS and the U.S. Coast Guard on enforcement and surveillance activities;
2. Consider final action on groundfish and crab license alternatives for the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish and crab fisheries;
3. Consider final action on the continuation of inshore/offshore allocations and the pollock community development quota program;
4. Review proposed observer specifications for 1996, prioritize observer deployments, discuss potential use of supplemental and voluntary observer programs, and receive a report from the Observer Oversight Committee;
5. Status report on the Sablefish and Halibut Individual Fishery Quota Program and review several proposed amendments;
6. Receive a progress report on the Scallop Fishery Management Plan and take action on an amendment for scallop management measures not now included in the plan;
7. Review halibut discard mortality rates specified for 1995;

8. Review trawl closure areas in Bristol Bay to reduce red king crab bycatch; and

9. Take final action on electronic reporting requirements for fishing vessels/processors.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, telephone: (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: May 23, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 95–13090 Filed 5–26–95; 8:45 am]

BILLING CODE 3510–22–F

## National Telecommunications and Information Administration

### Advisory Council on the National Information Infrastructure

**AGENCY:** National Telecommunications and Information Administration (NTIA).

**ACTION:** Notice of open meeting.

**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, June 14, 1995 from 9 a.m. until 4:30 p.m.

**ADDRESSES:** The NII Advisory Council meeting will take place in the Mumford Room, 6th Floor, at the Library of Congress, 101 Independence Avenue, SE. (Madison Building), Washington, DC 20540–1000.

**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, NW.; Washington, DC 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:** The NII Advisory Council will hold a public forum in the Mumford Room on Tuesday, June 13, 1995 from 4 p.m. to 5:30 p.m. The theme of the forum is information superhighway success stories, that is, real life examples of how technology can improve the quality of life in communities across the country. Mr. Derek McGinty will moderate the public forum and presenters include Ms. Annette Kaplan, Union City School District, Mr. Sanyakhu-Sheps Amare, Higher Education Development Fund, and Mr. Patrick O'Brien, Alexandria Public Library.

### Agenda

1. *Opening Remarks by the Co-Chairs (Delano Lewis, Ed McCracken)*
2. *Government Information Service Principles*
3. *Public Safety Principles*
4. *Remarks by Secretary of Education Richard Riley*
5. *KickStart Review and Progress*
6. *Public Discussion, Questions and Answers*
7. *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, NW.; Washington, DC 20230, Telephone 202–482–1835.

**Larry Irving,**

*Assistant Secretary for Communications and Information.*

[FR Doc. 95–13069 Filed 5–26–95; 8:45 am]

BILLING CODE 3510–60–P

## THE COMMISSION OF FINE ARTS

### Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for 15 June 1995 at 10 a.m. in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, 411 F Street, NW., Suite 312, Washington, DC 20001 or call 202–504–2200.

Dated in Washington, DC 19 May 1995.

**Charles H. Atherton,**

*Secretary.*

[FR Doc. 95–13055 Filed 5–26–95; 8:45 am]

BILLING CODE 6330–01–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

May 23, 1995.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs increasing limits.

**EFFECTIVE DATE:** May 31, 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) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryover.

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 60 FR 14931, published on March 21, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

May 23, 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 March 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on May 31, 1995, you are directed to increase the limits for the following categories, as provided under the provisions of the current bilateral agreement, as amended, between the Governments of the United States and Guatemala:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 340/640 | 1,122,129 dozen. |
| 347/348 | 1,308,776 dozen. |
| 351/651 | 252,969 dozen. |
| 448 | 47,531 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The guaranteed access levels remain unchanged.

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. 95–13100 Filed 5–26–95; 8:45 am]

BILLING CODE 3510–DR–F

## COMMODITY FUTURES TRADING COMMISSION

### Membership of the Commission's Performance Review Board

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Membership change of performance review board.

**SUMMARY:** In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act of 1978, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Susan Baumann, Executive Director.

Members: Stephen Luparello, Executive Assistant to the Chairman, Office of the Chairman; Andrea Corcoran, Director, Division of Trading and Markets; Elisse Water, General Counsel, Office of General Counsel.

**DATES:** This action was effective May 23rd, 1995.

**ADDRESSES:** Commodity Futures Trading Commission, Office of Personnel, Room 202, 2033 K Street NW., Washington, DC 20581.

**FOR FURTHER INFORMATION CONTACT:** Jayne Seidman, Director, Office of Personnel, Commodity Futures Trading Commission, Room 202, 2033 K Street NW., Washington, DC 20581, (202) 254–3275.

**SUPPLEMENTARY INFORMATION:** This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, June 21, 1994.

Issued in Washington, DC on May 23, 1995.

**Jean A. Webb,**

*Secretary to the Commission.*

[FR Doc. 95–13119 Filed 5–26–95; 8:45 am]

BILLING CODE 6351–01–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Homeless Assistance Act; Base Closure and Realignment

**AGENCY:** Department of Defense Economic Security.

**ACTION:** Notice.

**SUMMARY:** This notice provides points of contact and addresses for the Local Redevelopment Authorities (LRAs) for the closing and realigning bases listed below. They have elected to be covered under the ''Base Closure Community Redevelopment and Homeless Assistance Act of 1994'' (Homeless Assistance Act). All other closing or realigning installations will be screened in accordance with the ''Stewart B. McKinney Homeless Assistance Act'' (McKinney Act). Representatives of state and local governments and other parties interested in using base closure properties in this Notice for the needs of the homeless should contact the person or organization listed.

**EFFECTIVE DATE:** May 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Hertzfeld, Office of the Assistant Secretary of Defense for Economic Security, Pentagon, Room 1D760, Washington, DC 20301–4000, (703) 695–1470.

**SUPPLEMENTARY INFORMATION:** The Homeless Assistance Act exempts military installations approved for closure or realignment after the date of enactment of the Homeless Assistance Act from compliance with section 501 of the McKinney Act. Further, the Homeless Assistance Act affords LRAs for installations approved for closure pursuant to earlier base closure rounds the opportunity to elect the new procedures for addressing homeless needs, rather than using the McKinney Act procedures. Whereas the McKinney Act gives priority use of underutilized, excess, or surplus Federal real property to homeless assistance providers independent of other reuse plans for property, the Homeless Assistance Act establishes procedures by which local homeless assistance needs are incorporated into the overall reuse plan for the closing installation. Under the new law, LRAs are responsible for developing a reuse plan that incorporates homeless assistance; the plan subsequently must be approved by the Department of Housing and Urban Development to ensure that the needs of the homeless are adequately considered.

**Base Realignment and Closure Communities Electing New Planning Process U.S. Army**

**CALIFORNIA**

*Novato*

*Hamilton Army Airfield*

Hamilton Reuse Planning Authority, 900 Sherman Avenue, Novato, CA 94945, Mr. Ken H. Bell

**COLORADO**

*Pueblo*

*Pueblo Depot Activity*

Pueblo Depot Activity Development Authority, 1120 Court Street, Room 102, Pueblo, CO 81003–2819, Mr. Charles J. Finley

**MASSACHUSETTS**

*Ayer*

*Fort Devens*

Massachusetts Government Land Bank, One Court Street, Suite 200, Boston, MA 02108, Mr. Timothy A. Bassett

**NEW JERSEY**

*East Hanover*

*Nike Missile Battery 80*

Township of East Hanover, 411 Ridgedale Avenue, East Hanover, NJ 07936, Honorable Lawrence J. Colasurdo, Mayor

*Wall*

*Camp Evans/Fort Monmouth*

Marconi Park Complex Advisory Committee, Township of Wall, 2700 Allaire Road, P.O. Box 1168, Wall, NJ 07719–1168, Mr. Joseph L. Verruni

**NEW YORK**

*Brooklyn*

*Manhattan Beach*

Manhattan Beach Community Group, Inc., 174 Dover Street, Brooklyn, NY 11235, Mr. Oliver Klapper

**OREGON**

*Umatilla Army Depot*

Installation is covered under Pub. L. 103–421 Point of contact and organization will be provided at a later date.

**PENNSYLVANIA**

*Philadelphia*

*Defense Personnel Support Center*

City of Philadelphia, Department of Commerce, 1600 Arch Street, 13th Floor, Philadelphia, PA 19103, Ms. Terry Gillen

**VIRGINIA**

*Warrenton*

*Vint Hill Farms Station*

Vint Hill Economic Adjustment Task Force, 26B John Marshall Street, Warrenton, VA 22186, Mr. Owen Bludau

**CALIFORNIA**

*Alameda*

*Naval Air Station Alameda/Naval Aviation Depot*

Alameda Reuse and Redevelopment Authority, Naval Air Station, Post Director, Bldg 90, Alameda, CA 94501–5012, Mr. Dave Louk

*Long Beach*

*Naval Station Long Beach*

City of Long Beach, Office of the City Manager, 333 West Ocean Boulevard, Long Beach, CA 90802, Mr. James C. Hankla

*Los Angeles*

*Naval Station Long Beach (Los Angeles Property)*

City of Los Angeles, City Clerk, Room 395, City Hall, Los Angeles, CA 90012, Mr. Elias Martinez

*Novato, Defense Housing Facility, Hamilton Field*

Hamilton Reuse Planning Authority, 900 Sherman Avenue, Novato, CA 94945, Mr. Ken H. Bell

*Oakland*

*Naval Hospital Oakland*

Oakland Base Reuse Authority, 530 Water Street, 5th Floor, Oakland, CA 94607, Mr. Barry Cromardie

*Orange County*

*Marine Corps Air Station El Toro*

Chairman of the Board of Supervisors, County of Orange, 10 Civic Center Plaza, Santa Ana, CA 92701–3330, Mr. Gaddi H. Vasquez

*Port Hueneme*

*Naval Civil Engineering Laboratory Port Hueneme*

City of Port Hueneme, 250 North Venture Road, Port Hueneme, CA 93041, Mr. Thomas E. Figg

*San Diego*

*Naval Training Center San Diego*

City of San Diego, 1200 Third Avenue, Suite 1700, San Diego, CA 92101, Mr. Michael Stepner

*San Francisco*

*Naval Station Treasure Island*

San Francisco Redevelopment Authority, 770 Golden Gate Avenue, San Francisco, CA 94102, Mr. Larry Florin

*Tustin*

*Marine Corps Air Station Tustin*

City of Tustin, Mayor, 300 Centennial Way, Tustin, CA 92681–3539, Honorable Thomas R. Saltarelli

*Vallejo*

*Naval Ship Yard Mare Island*

City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590, Mr. Walter Graham

**FLORIDA**

*Miami*

*Naval Reserve Center Coconut Grove*

City of Miami, City Manager, P.O. Box 330700, Miami, FL 33233–0708, Mr. Cesar H. Odio

*Orlando*

*Naval Training Center Orlando*

NTC Reuse Commission of the City of Orlando, Planning and Development Department, 400 South Orange Avenue, Orlando, FL 32801–3302, Mr. Herbert E. Smetheram

**GUAM**

*Agana*

*Naval Air Station Agana*

Komitea Para Tiyan (NAS Agana Reuse Committee), Bureau of Planning, Government of Guam, Agana, Guam 969910, Mr. Frank Toves

**HAWAII**

*Honolulu*

*Naval Air Station Barbers Point*

Barbers Point Naval Air Station Redevelopment Commission, Office of State Planning, PO Box 3540, Honolulu, HI 96811–3540, Mr. Paul O'Connor

**MASSACHUSETTS**

*New Bedford*

*Naval Reserve Center New Bedford*

City of New Bedford, Mayor, 133 William Street, New Bedford, MA 02740, Honorable Rosemary S. Tierney

*Pittsfield*

*Naval Reserve Center Pittsfield*

City of Pittsfield, Mayor, City Hall, 70 Allen Street, Pittsfield, MA 01201, Honorable Edward M. Reilly

*Quincy*

*Naval Reserve Center Quincy*

City of Quincy, Mayor, Quincy City Hall, 1305 Hancock St., Quincy, MA 02169, Honorable James A. Sheets

**NEW JERSEY**

*Perth Amboy*

*Naval Reserve Center Perth Amboy*

City of Perth Amboy, Mayor, City Hall, Perth Amboy, NJ 08861, Honorable Joseph Vas

*Ewing*

*Naval Air Warfare Center Aircraft Division Trenton*

Ewing Township Local Reuse Committee, Township of Ewing, Ewing Municipal Complex, 2 Municipal Drive, Ewing, NJ 08628, Mr. Fred Walters

**NEW YORK**

*Jamestown*

*Naval Reserve Center Jamestown*

City of Jamestown Mayor, Municipal Building, Jamestown, NY 14701, Honorable Richard A. Kimball, Jr.

*New York*

*Naval Station New York (Brooklyn)*

City of New York, Office of the Mayor, Planning and Community Relations, New York, NY 10007, Deputy Mayor Fran Reiter

*Naval Station New York (Staten Island)*

City of New York, NYC Economic Development Corporation, 110 Williams Street, New York, NY 10038, Mr. Christopher O. Ward

**PENNSYLVANIA**

*Philadelphia*

*Naval Base Philadelphia*

City of Philadelphia, Office of Defense Conversion, 1600 Arch Street, 13th Floor, Philadelphia, PA 19103, Ms. Terry Gillen

*Warminster*

*Naval Air Warfare Center Aviation Division Warminister*

Bucks County NAWC Economic Adjustment Committee, 622 Mary Street, Suite 1A, Warminister, PA 18974, Ms. Sheila Bass

**VIRGINIA**

*Staunton*

*Naval Reserve Center Staunton*

City of Staunton, City Manager, P.O. Box 58, Staunton, VA 22402–0058, Bernard J. Murphy, Jr.

*Suffolk*

*Naval Radio Test Facility Driver Suffolk*

City of Suffolk, P.O. Box 1858, 428 West Washington Street, Suffolk, VA 23439, Mr. Robert Baldwin

**TEXAS**

*Dallas*

*Naval Air Station Dallas*

City of Duncanville, Office of the City Manager, P.O. Box 38020, Duncanville, TX 75138–0280, Mr. Larry Shaw

**WASHINGTON**

*Seattle*

*Naval Station Puget Sound (Sand Point)*

City of Seattle, Intergovernmental Relations, 1200 Municipal Building, 600 Fourth Avenue, Seattle, WA 98104–1873, Ms. Linda Cannon.

**CALIFORNIA**

*Morena Valley*

*March Air Force Base*

March Joint Powers Authority, P.O. Box 7480, Morena Valley, CA 92552, Mr. Stephen A. Albright

*San Bernardino*

*Norton Air Force Base*

Inland Valley Development Authority, 201 North E Street, Suite 203, San Bernardino, CA 92401–1507, Mr. William Bopf

*Victorville*

*George Air Force Base*

Victor Valley Economic Development Authority, 13246 Eagle Street, Victorville, CA 92394, Mr. Ken Hobbs

**MICHIGAN**

*Oscoda*

*Wurtsmith Air Force Base*

Charter Township of Oscoda, 110 South State Street, Oscoda, MI 48750, Mr. Carl Sachs

**NEW HAMPSHIRE**

*Portsmouth*

*Pease Air Force Base*

Pease Development Authority, Suite 1, 601 Spaulding Turnpike, Portsmouth, NH 03801–2833, Mr. L. Eugene Schneider

**OHIO**

*Heath*

*Newark Air Force Base*

Newark-Heath Air Force Base Reuse Commission, City of Heath, 1287 Hebron, Heath, OH 43056, Mr. Wallace L. Horton

**TEXAS**

*Dallas*

*Carswell AFB*

Carswell Redevelopment Authority, Executive Director, P.O. Box 27136, Carswell AFB, TX 76127, Mr. Derrick Curtis.

Dated: May 24, 1995.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13178 Filed 5–26–95; 8:45 am]

BILLING CODE 5000–04–M

## Meeting of the President's Advisory Board on Arms Proliferation Policy

**AGENCY:** Defense Security Assistance Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of a meeting of the President's Advisory Board on Arms Proliferation Policy. The Advisory Board was formed under the authority of section 1601 of the National Defense Authorization Act, Fiscal Year 1994 (Public Law 103–160), and Executive Order 12946, January 20, 1995. The purpose of the meeting is to assist the Board in ensuring that all view points are taken into consideration The meeting will be open to the public.

**DATES:** June 12, 1995.

**ADDRESSES:** The RAND Corporation, 2100 M Street NW, Washington, DC 20037–1270.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deanna Powers, Defense Security Assistance Agency, Crystal Gateway North, 1111 Jefferson Davis Highway, Suite 303, Arlington, VA 22202–4306; telephone (703) 604–6617; or contact RAND, Ms. Kathy Webb, at the above address; telephone (202) 296–5000, ext 5250.

**SUPPLEMENTARY INFORMATION:** The meeting will be held from 9:00 am until 12:00 pm. Several organizations and individuals have been asked by the Board to make presentations. Written comments received before the meeting will be considered by the Board. Address such comments to the Board in care of RAND, at the above address. Seating is limited.

Dated: May 23, 1995.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13036 Filed 5–26–95; 8:45 am]

BILLING CODE 5000–04–M

## Meeting of the Military Health Care Advisory Committee

**AGENCY:** Department of Defense, Military Health Care Advisory Committee.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the forthcoming meeting of the Military Health Care Advisory Committee. This is the first meeting of the new Committee. The purpose of the meeting is to advise the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense (Personnel and Readiness), the Assistant Secretary of Defense (Health Affairs), and the Military Departments with respect to problems and opportunities and potential solutions and strategies for the military health care system. Meeting sessions will be held daily and will be open to the public.

**DATES:** June 13–14, 1995.

**ADDRESSES:** The Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland, unless otherwise published.

**FOR FURTHER INFORMATION CONTACT:** Major Calvin Williams, Acting Special Assistant to the Assistant Secretary of Defense (Health Affairs), Office of the Assistant Secretary of Defense (Health affairs), Room 3E346, The Pentagon, Washington, DC 20301–1200; telephone (703) 697–2111.

**SUPPLEMENTARY INFORMATION:** Business sessions are scheduled between 9:00 a.m. and 5:30 p.m. Tuesday, June 13, and between 9:00 a.m. and 11:45 a.m. on Wednesday, June 14, 1995.

Dated: May 23, 1995.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense*

[FR Doc. 95–13040 Filed 5–26–95; 8:45 am]

BILLING CODE 5000–04–M

## Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Industrial Base Team; Notice of Advisory-Committee Meetings

**SUMMARY:** The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Industrial Base Team will meet in closed session on June 5–6, 1995 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 23, 1995.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13035 Filed 5–26–95; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team; Notice of Advisory Committee Meetings

**SUMMARY:** The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team will meet in closed session on June 6–7, June 21–22, and July 12–13, 1995 at Science Applications International Corporation, 1525 Wilson Boulevard, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: May 23, 1995.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13037 Filed 5–26–95; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board; Notice of Advisory Committee Meetings

**SUMMARY:** The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military, Technology Team will meet in closed session on June 1–2, 1995 at Strategic Analysis, Inc., 4001 North Fairfax Drive, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At that meeting time the Task Force will focus on those R&D investment that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1998)), it has been determined that this DSB meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1998), and that accordingly this meeting will be closed to the public.

Dated: Dated: May 23, 1995.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13038 Filed 5–26–95; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board/Defense Policy Board Task Force on Theater Missile Defense (TMD); Notice of Advisory Committee Meeting

**SUMMARY:** The Defense Science Board/Defense Policy Board Task Force on Theater Missile Defense (TMD) will meet in closed session on June 12–13, 1995 at Science Applications International Corporation (SAIC), McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review the purposes of the U.S. theater missile defense effort, including the nature of the threat (types and quantities of missiles and payloads); how might it evolve; the degree of defense we seek; what we wish to defend; under what circumstances; and to what levels.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 23, 1995.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 95–13039 Filed 5–26–95; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board Task Force on Breakthrough Technologies; Notice of Advisory Committee Meeting

**SUMMARY:** The Defense Science Board Task Force on Breakthrough Technologies will meet in closed session on June 8, 1995 at the New York Academy of Sciences, New York, New York.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine a cross section of scientific areas with an eye to identifying potentially high payoff research that should be pursued by the Advanced Research Projects Agency (ARPA) directly, or in collaboration with other elements of the Department of Defense.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly

this meeting will be closed to the public.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 94–13042 Filed 5–26–94; 8:45 am]

BILLING CODE 5000–04–M

## Department of the Navy

### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Manning will meet June 6-7, 1995. The meeting will be held at the Boeing Company, Seattle, Washington. The meeting will commence at 8:45 a.m. and terminate at 4:30 p.m. on June 6; and commence at 9:30 a.m. and terminate at 2 p.m. on June 7, 1995. All sessions will be closed to the public.

The purpose of this meeting will be to provide the Navy with an assessment of the force structure and ship concepts which would require a minimum manning level with a goal of 25% reduction of current manning. The agenda will include briefings, discussions, demonstrations, and technical examination of information on the Boeing Company and Department of the Navy initiatives related to simulation based design, life cycle cost estimation, engineering for reduced operating and maintenance costs, and relevant technology developments and issues. Enclosure (1) is a tentative meeting agenda. These technical briefings, discussions, and demonstrations will contain sensitive company proprietary information and classified information and that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The sensitive compant proprietary information and classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

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) and (4) of title 5, United States Code.

This Notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

For further information concerning this meeting, contact: Ms. Diane Mason-Muir, Office of Naval Research, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217-5660, Phone: (703) 696-5660.

Dated: May 23, 1995.

*L. R. McNees,*

*LCDR, JAGC, USN, Federal Register Liaison Officer.*

[FR Doc. 95–13128 Filed 5–26–95; 8:45 am]

BILLING CODE 3810–FF–F

## DEPARTMENT OF EDUCATION

**[CFDA No.: 84.160A]**

### Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of the Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind program is to establish interpreter training programs or to assist ongoing programs to train a sufficient number of skilled interpreters to meet the communication needs of individuals who are deaf and individuals who are deaf-blind.

Eligible Applicants: Public and private nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under this program. Eligibility for this particular competition is restricted to those entities in Rehabilitation Services Administration (RSA) Region IV, which includes the following States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

**SUPPLEMENTARY INFORMATION:** On December 5, 1994, the Secretary published in the **Federal Register** a notice inviting applications under the Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind program (59 FR 62511). The intent was to provide an award in each of the 10 RSA regions.

Two applications were received from RSA Region IV, and neither application was found acceptable. The Secretary believes that, by reopening the competition in this region, improved applications will be submitted. Also, the unsuccessful applicants from the December competition have been provided with peer review comments so that they may strengthen their proposals and resubmit them for consideration with other applications that may be submitted in response to this notice.

Deadline for Transmittal of Applications: July 14, 1995.

Deadline for Intergovernmental Review: September 13, 1995.

Applications Available: May 30, 1995.

Available Funds: $160,000.

Estimated Range of Award: $120,000–$160,000.

Estimated Size of Award: $140,000.

Estimated Number of Awards: 1.

**Note:** The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 396.

Project Budget: The Department plans to have a project directors' meeting for this program this fiscal year and expects to have annual meetings in future years. The Department, therefore, recommends that travel costs to attend an annual meeting be included in the application budget for the project period.

For Applications or Information Contact: George Kosovich, U.S. Department of Education, 600 Independence Avenue, SW., Room 3221, Switzer Building, Washington, DC 20202–2736. Telephone: (202) 205–9698. Individuals who use a telecommunication device for the deaf (TDD) may call the TDD number at (202) 205–8919.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

**Program Authority:** 29 U.S.C. 771a(f).

Dated: May 23, 1995.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 95–13065 Filed 5–26–95; 8:45 am]

BILLING CODE 4000–01–P

## National Assessment Governing Board; Meetings

**AGENCY:** National Assessment Governing Board; Department of Education.

**ACTION:** Notice of closed teleconference meetings.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of forthcoming closed teleconference meetings of the Executive and the Subject Area #2 committees of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

**DATES:** June 12, 1995.

**TIME:** 11:00 a.m. to 11:30 a.m., Joint Meeting, Executive Committee and Subject Area Committee #2, (closed); 11:30 a.m. to 1:00 p.m., Executive Committee (closed).

**LOCATION:** 800 North Capitol Street, N.W., Suite 825, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994(, (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On June 12, the Executive Committee and the Subject Area Committee #2 will meet in a joint teleconference from 11:00 a.m. until 11:30 a.m. The purpose of this meeting is to decide on whether to conduct the grade 12 arts field test in 1996. This meeting will be closed to the public to permit the committees to review and discuss confidential government cost estimates related to the procurement of the arts field test. The discussion of this information will involve proprietary information about funding levels for proposed procurements and would be likely to significantly frustrate implementation of a proposed agency action if considered in open session. Such matters are protected by exemption (9(B)) of Section 552(b(c) of Title 5 U.S.C.

At the conclusion of the joint meeting, the Executive Committee will continue to meet in closed session to review and act on two agenda items: (1) The performance of National Assessment Governing Board excepted-appointment staff in their respective positions, and (2) confidential government cost-estimate issues related to the procurement of future NAEP assessments.

The reviews and subsequent personnel actions of the excepted-appointment staff will relate solely to the internal rules and practices of an agency and disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

The committee's deliberations regarding the government cost-estimates for future NAEP assessments will involve discussions of proprietary information about funding levels for proposed procurements. Premature public disclosure of this information would affect private decisions by third parties and damage the financial interests of the NAEP program. The premature disclosure of this information would be likely to significantly frustrate implementation of a proposed agency action if considered in open session. Such matters are protected by exemption (9(B)) of Section 552b(c) of Title 5 U.S.C.

A summary of the activities and related matters, which are informative to the public and consistent with the policy of Section 5 U.S.C. 552b, will be available to the public within 14 days after the meetings. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: May 23, 1995.

**Roy Truby,**

*Executive Director, National Assessment Governing Board.*

[FR Doc. 95–13054 Filed 5–26–95; 8:45 am]

**BILLING CODE 4000–01–M**

## National Assessment Governing Board; Meeting

**AGENCY:** National Assessment Governing Board, Education.

**ACTION:** Amendment to notice of a teleconference meeting.

**SUMMARY:** This amends the notice of a meeting of the Achievement Levels Committee of the National Assessment Governing Board published on May 23, 1995 in 60 FR 27279. The date and time of the June 12, 1995 teleconference meeting of the Achievement Levels Committee of the National Assessment Governing Board has been changed. The Committee will meet on June 15, 1995, between the hours of 12 noon to 2 p.m., (et). The meeting location is unchanged.

**DATES:** June 15, 1995.

**TIME:** 12 Noon to 2 p.m. (et).

**LOCATION:** 800 North Capitol Street, NW., Suite 825, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233. Telephone—202–357–6938.

Dated: May 24, 1995.

**Roy Truby,**

*Executive Director, National Assessment Governing Board.*

[FR Doc. 95–13169 Filed 5–26–95; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EG95–52–000, et al.]**

## HIE OPCO S.A., et al.; Electric Rate and Corporate Regulation Filings

May 22, 1995.

Take notice that the following filings have been made with the Commission:

### 1. HIE OPCO S.A.

[Docket No. EG95–52–000]

On May 17, 1995, HIE OPCO S.A. (''HIE OPCO''), 611 Walker, 11th Floor, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

HIE OPCO intends to operate a natural gas-fired electric generation facility with a maximum net power production capacity of approximately 165 MW to be located in the vicinity of San Nicolas, Argentina.

*Comment date:* June 14, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**2. HIE Argener S.A.**

[Docket No. EG95–53–000]

On May 17, 1995, HIE Argener S.A. (''HIE Argener''), 611 Walker, 11th Floor, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

HIE Argener intends to own a natural gas-fired electric generation facility with a maximum net power production capacity of approximately 165 MW to be located in the vicinity of San Nicolas, Argentina.

*Comment date:* June 14, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits consideration of comments to those that concern the adequacy or accuracy of the application.

**3. DC Tie, Inc.**

[Docket No. ER91–435–015]

Take notice that on April 28, 1995, DC Tie, Inc. tendered for filing certain information as required by the Commission's order dated July 11, 1991. Copies of informational filing are on file with the Commission and are available for public inspection.

**4. Enron Power Marketing, Inc.**

[Docket No. ER94–24–008]

Take notice that on May 1, 1995, Enron Power Marketing, Inc. tendered for filing certain information as required by the Commission's order dated December 2, 1993. Copies of informational filing are on file with the Commission and are available for public inspection.

**5. CMEX Energy, Inc.**

[Docket No. ER94–1328–003]

Take notice that on April 24, 1995, CMEX Energy, Inc. tendered for filing certain information as required by the Commission's letter order dated July 12, 1994. Copies of informational filing are on file with the Commission and are available for public inspection.

**6. ACME Power Marketing, Inc.**

[Docket No. ER94–1530–002]

Take notice that on April 28, 1995, ACME Power Marketing, Inc. tendered for filing certain information as required by the Commission's order dated October 18, 1994. Copies of informational filing are on file with the Commission and are available for public inspection.

**7. Engelhard Power Marketing Inc.**

[Docket No. ER94–1690–003]

Take notice that on April 26, 1995, Engelhard Power Marketing, Inc. tendered for filing certain information as required by the Commission's order dated December 29, 1994. Copies of informational filing are on file with the Commission and are available for public inspection.

**8. Power Exchange Corporation**

[Docket No. ER95–72–001]

Take notice that on May 9, 1995, Power Exchange Corporation (PXC) filed certain information as required by the Commission's February 1, 1995 order. Copies of PXC's informational filing are on file with the Commission and are available for public inspection.

**9. National Power Management Co.**

[Docket No. ER95–192–001]

Take notice that on May 8, 1995, National Power Management Company tendered for filing certain information as required by the Commission's letter order. Copies of informational filing are on file with the Commission and are available for public inspection.

**10. Howard Energy Company, Inc.**

[Docket No. ER95–252–001]

Take notice that on May l, 1995, Howard Energy Company, Inc. tendered for filing certain information as required by the Commission's order dated February 24, 1995. Copies of informational filing are on file with the Commission and are available for public inspection.

**11. Stand Energy Corp.**

[Docket No. ER95–362–001]

Take notice that on May 10, 1995, Stand Energy Corporation, tendered for filing certain information as required by the Commission's letter order dated February 24, 1995. Copies of informational filing are on file with the Commission and are available for public inspection.

**12. Rig Gas Inc.**

[Docket No. ER95–480–001]

Take notice that on April 24, 1995, Rig Gas Inc. (Rig) filed certain information as required by the Commission's March 16, 1995 letter order in docket No. ER95–480–000. Copies of Rig's informational filing are on file with the Commission and are available for public inspection.

**13. Western Resources, Inc.**

[Docket No. ER95–615–000]

Take notice that on May 3, 1995, Western Resources, Inc. (Western Resources) tendered for filing an amendment to its February 16, 1995, filing in this docket. The filing modifies a proposed Participation Power Agreement between Western Resources and The Empire District Electric Company (EDE).

**14. Pennsylvania Power & Light Co.**

[Docket No. ER95–782–000]

Take notice that on May 11, 1995, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission supplemental material relating to the above docket.

**15. Wisconsin Power & Light Co.**

[Docket No. ER95–861–000]

Take notice that on May 3, 1995, Wisconsin Power & Light Company (WP&L) tendered for filing an amendment to its filing dated April 3, 1995 relating to a revised Wholesale Power Agreement dated January 18, 1995, between the Village of Mazomanie and WP&L. WP&L states that this amendment corrects the April 3 filing with respect to two facts included erroneously in that filing. Those facts, and the amendments to them, are as follows:

The April 3 filing referred to the date of the previous agreement between the parties as December 4, 1980—the actual date of the previous agreement between the parties was December 4, 1990—and the April 3 filing is amended to reflect the correct date; and

The April 3 filing referred to the FERC Rate Schedule Number 140—the correct FERC Rate Schedule Number is 162 which superseded 140—and the April 3 filing is amended to refer to FERC Rate Schedule 162.

All other factors with respect to the April 3 filing are correct. WP&L states that copies of the amended Wholesale Power Agreement and this filing have been provided to the Village of Mazomanie and the Public Service Commission of Wisconsin.

*Comment date:* June 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

**16. Rainbow Energy Marketing Corp.**

[Docket No. ER95–918–000]

Take notice that on May 8, 1995, Rainbow Energy Marketing Corporation (REMC) filed a Withdrawal of a service agreement between Rainbow Energy Marketing Corporation and the Rochester Gas and Electric Corporation.

Rainbow Energy Marketing Corporation hereby wishes to withdraw the service agreement between Rainbow Energy Marketing Corporation and the

Rochester Gas and Electric Corporation which was filed with FERC Docket No. ER95–918. This request is being made because REMC was not required to file the agreement.

Copies of this filing have been sent to Rochester Gas and Electric Corporation and the New York Public Service Commission.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**17. Rainbow Energy Marketing Corp.**

[Docket No. ER95–921–000]

Take notice that on May 8, 1995, Rainbow Energy Marketing Corporation (REMC) filed a Withdrawal of a service agreement between Rainbow Energy Marketing Corporation and the City of Anaheim.

Rainbow Energy Marketing Corporation hereby wishes to withdraw the service agreement between Rainbow Energy Marketing Corporation and the City of Anaheim which was filed with FERC Docket No. ER95–921. This request is being made because REMC was not required to file the agreement.

Copies of this filing have been sent to the City of Anaheim and the California Public Utility Commission.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**18. Rainbow Energy Marketing Corp.**

[Docket No. ER95–922–000]

Take notice that on May 8, 1995, Rainbow Energy Marketing Corporation (REMC) filed a Withdrawal of a service agreement between Rainbow Energy Marketing Corporation and Southern Municipal Power Agency.

Rainbow Energy Marketing Corporation hereby wishes to withdraw the service agreement between Rainbow Energy Marketing Corporation and Southern Minnesota Municipal Power Agency which was filed with FERC Docket No. ER95–922. This request is being made because REMC was not required to file the agreement.

Copies of this filing have been sent to Southern Minnesota Municipal Power Agency and the Minnesota Public Service Commission.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**19. Rainbow Energy Marketing Corp.**

[Docket No. ER95–923–000]

Take notice that on May 2, 1995, Rainbow Energy Marketing Corporation (REMC) filed a Withdrawal of a service agreement between Rainbow Energy Marketing Corporation and Minnkota Power Cooperative, Inc.

Rainbow Energy Marketing Corporation hereby wishes to withdraw the service agreement between Rainbow Energy Marketing Corporation and Minnkota Power Cooperative, Inc. which was filed with FERC Docket No. ER95–923. This request is being made because REMC was not required to file the agreement.

Copies of this filing have been sent to Minnkota Power Cooperative, Inc. and the North Dakota Public Service Commission.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**20. Florida Power & Light Co.**

[Docket No. ER95–938–000]

Take notice that on April 21, 1995, Florida Power & Light Company (FPL) tendered for filing proposed Service Agreement with the City of Tallahassee for transmission service under FPL's Transmission Tariff Nos. 2 and 3.

FPL requests that the proposed Service Agreement be permitted to become effective May 1, 1995, as soon thereafter as practicable.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**21. Idaho Power Co.**

[Docket No. ER95–1022–000]

Take notice that on May 8, 1995, Idaho Power Company (IPC), tendered for filing a term extension for specified transmission services provided pursuant to the Restated Transmission Service Agreement between Idaho Power Company and PacifiCorp Electric Operations.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**22. Entergy Services, Inc.**

[Docket No. ER95–1023–000]

Take notice that on May 8, 1995, Entergy Services, Inc. (Entergy Services) on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc., tendered for filing a Transmission Service Agreement (TSA) between Entergy Services and Central and South West Services, Inc., acting as agent for Southwestern Electric Power Company (SWEPCO). Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies' will provide SWEPCO firm and non-firm transmission service under Entergy Services Transmission Service Tariff, in connection with service by SWEPCO to the City of Minden, Louisiana.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**23. Entergy Services, Inc.**

[Docket No. ER95–1024–000]

Take notice that on May 8, 1995, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc., tendered for filing a Transmission Service Agreement (TSA) between Entergy Services and Central Louisiana Electric Company (CLECO). Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies' will provide CLECO firm transmission service under Entergy Services Transmission Service Tariff, in connection with service by CLECO to the City of St. Martinville, Louisiana.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**24. Orange and Rockland Utilities, Inc.**

[Docket No. ER95–1026–000]

Take notice that on May 9, 1995, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing as a rate schedule an executed agreement dated November 11, 1994, between Orange and Rockland and Enron Power Marketing, Inc. for the sale of interruptible power and energy by and between Orange and Rockland and Enron Power Marketing, Inc.

The rate schedule provides for an economy reservation charge for Orange and Rockland not to exceed $14.79/MWH scheduled and an energy charge equal for the seller's marginal system cost.

Orange and Rockland requests waiver of the notice requirements of § 35.3 of the Commission's regulations so that the proposed rate schedule can be made effective April 15, 1995 in accordance with the anticipated utilization by the parties.

Orange and Rockland states that a copy of its filing was served on Enron Power Marketing, Inc.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**25. Orange and Rockland Utilities, Inc.**

[Docket No. ER95–1027–000]

Take notice that on May 9, 1995, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for

filing as a rate schedule an executed agreement dated December 1, 1994, between Orange and Rockland and Long Island Lighting Company (LILCO) for the sale of interruptible power and energy by Orange and Rockland to LILCO.

The rate schedule provides for an economy reservation charge for Orange and Rockland not to exceed $14.79/MWH scheduled and an energy charge equal to the Orange and Rockland's marginal system cost.

Orange and Rockland requests waiver of the notice requirements of § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective April 15, 1995 in accordance with the anticipated utilization by the parties.

Orange and Rockland states that a copy of its filing was served on Long Island Lighting Company.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**26. Consolidated Edison Company of New York, Inc.**

[Docket No. ER95–1028–000]

Take notice that on May 9, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement with Engelhard Power Marketing, Inc. (Engelhard) to provide for the sale of energy and capacity. For energy sold by Con Edison the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC (where such 10 percent is limited to 1 mill per kWhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity sold by Con Edison is $7.70 per megawatt hour. All energy and capacity sold by Engelhard will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon Engelhard.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**27. Pacific Gas and Electric Co.**

[Docket No. ER95–1029–000]

Take notice that on May 9, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing a Power Scheduling Agreement dated May 1, 1995, (the Agreement), between the M-S-R Public Power Agency (M-S-R) and PG&E. M-S-R is a joint exercise of powers agency organized under California law with the Cities of Santa Clara and Redding and the Modesto Irrigation District as its members. The Agreement enables M-S-R to act as agent for its members for the purpose of scheduling certain electric power into, out of, or through the PG&E control area.

Copies of this filing have been served upon M-S-R and the California Public Utilities Commission.

*Comment date:* June 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

**28. El Paso Electric Co.**

[Docket No. ES94–18–003]

Take notice that on May 19, 1995, El Paso Electric Company (El Paso) filed an application under section 204 of the Federal Power Act seeking authorization through the remaining term of its Maricopa County Adjustable Tender Pollution Control Revenue Bonds, 1994 Series A ($63.5 million principal amount):

- To enter into extensions of an existing letter of credit issued by Citibank, N.A., or
- To enter into replacement letters of credit with the same or different financial institutions, and
- To undertake any necessary and appropriate actions in connection with any such extensions and replacements for the letter of credit.

Also, El Paso requests exemption from the Commission's competitive bidding and negotiated placement regulations.

*Comment date:* June 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

**29. Peter W. Likins**

[Docket No. ID–2884–000]

Take notice that on May 1, 1995, Peter W. Likins (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Trustee, Consolidated Edison Company of New York
Director, Parker-Hannifin Corporation

*Comment date:* June 5, 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, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13082 Filed 5–26–95; 8:45 am]

BILLING CODE 6717–01–P

**[Docket Nos. ST95–2080–000 et al.]**

## ANR Pipeline Co.; Self-Implementing Transactions

May 23, 1995.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's Regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 7 of the NGA and section 5 of the Outer Continental Shelf Lands Act.[1]

The ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The ''Part 284 Subpart'' column in the following table indicates the type of transaction.

A ''B'' indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A ''C'' indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A ''D'' indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An ''E'' indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A ''G'' indicates transportation by an interstate pipeline on behalf of another

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A ''G–I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's regulations.

A ''G–S'' indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A ''G–LT'' or ''G–LS'' indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A ''G–HT'' or ''G–HS'' indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A ''K'' indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A ''K–S'' indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

| Docket No.[1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity[2] | Aff. Y/A/N[3] | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST95–2080 | ANR PIPELINE CO .. | TENNECO GAS MARKETING CO. | 04–03–95 | G–S | 10,000 | N | F | 04–01–94 | INDEF. |
| ST95–2081 | ANR PIPELINE CO .. | ENRON GAS MARKETING INC. | 04–03–95 | G–S | 7,407 | N | F | 04–01–94 | INDEF. |
| ST95–2082 | ANR PIPELINE CO .. | AMGAS INC ..... | 04–03–95 | G–S | 1,300 | N | F | 05–02–94 | INDEF. |
| ST95–2083 | ANR PIPELINE CO .. | TEXACO NATURAL GAS INC. | 04–03–95 | G–S | 150,000 | N | F | 07–01–94 | INDEF. |
| ST95–2084 | ANR PIPELINE CO .. | CYPRESS GAS PIPELINE. | 04–03–95 | G–S | 180,000 | N | F | 10–01–94 | INDEF. |
| ST95–2085 | ANR PIPELINE CO .. | TENASKA MARKETING VENTURES. | 04–03–95 | G–S | 20,000 | N | F | 10–02–94 | INDEF. |
| ST95–2086 | ANR PIPELINE CO .. | KAZTEX ENERGY MANAGEMENT. | 04–03–95 | G–S | 65,000 | N | F | 09–06–94 | INDEF. |
| ST95–2087 | ANR PIPELINE CO .. | KANSOK ..... | 04–03–95 | B | 20,000 | N | F | 12–01–94 | INDEF. |
| ST95–2088 | ANR PIPELINE CO .. | CENERGY INC ..... | 04–03–95 | G–S | 5,000 | N | F | 10–07–94 | INDEF. |
| ST95–2089 | ANR PIPELINE CO .. | BRING GAS SERVICES CORP. | 04–03–95 | G–S | 1,000 | Y | F | 11–01–94 | INDEF. |
| ST95–2090 | ANR PIPELINE CO .. | ALRECO METALS INC. | 04–03–95 | G–S | 1,200 | N | F | 11–01–94 | INDEF. |
| ST95–2091 | ANR PIPELINE CO .. | EASTERN ENERGY MARKETING INC. | 04–03–95 | G–S | 35,000 | N | F | 10–26–94 | INDEF. |
| ST95–2092 | ANR PIPELINE CO .. | PACKERLAND ENERGY SERVICES INC. | 04–03–95 | G–S | 8,000 | N | F | 11–01–94 | INDEF. |
| ST95–2093 | ANR PIPELINE CO .. | KERR-MCGEE NATURAL GAS INC. | 04–03–95 | G–S | 5,000 | N | F | 11–01–94 | INDEF. |
| ST95–2094 | ANR PIPELINE CO .. | HADSON GAS SYSTEMS. | 04–03–95 | G–S | 30,000 | N | F | 11–01–94 | INDEF. |
| ST95–2095 | ANR PIPELINE CO .. | SEAGULL MARKETING SERVICES. | 04–03–95 | G–S | 10,000 | N | F | 11–01–94 | INDEF. |
| ST95–2096 | ANR PIPELINE CO .. | MILWAUKEE METROPOLITAN SEWER DIST. | 04–03–95 | G–S | 2,400 | N | F | 11–10–94 | INDEF. |
| ST95–2097 | ANR PIPELINE CO .. | TRISTAR GAS MARKETING. | 04–03–95 | G–S | 10,000 | N | F | 10–28–94 | INDEF. |
| ST95–2098 | ANR PIPELINE CO .. | PRIMIER GAS CO ... | 04–03–95 | G–S | 8,000 | N | F | 11–02–94 | INDEF. |
| ST95–2099 | WILLISTON BASIN INTER. P/L CO. | MONTANA-DAKOTA UTILITIES CO. | 04–03–95 | G–S | 50,000 | A | I | 03–04–94 | 02–28–97 |
| ST95–2100 | TEJAS GAS PIPELINE CO. | SABINE PIPELINE CO. | 04–03–95 | C | 10,000 | N | I | 03–22–95 | INDEF. |
| ST95–2101 | TEXAS-OHIO PIPELINE, INC. | TEXAS-OHIO GAS, INC. | 04–03–95 | G–S | 90,000 | N | I | 03–01–95 | INDEF. |
| ST95–2102 | ANR PIPELINE CO .. | AMOCO ENERGY TRADING. | 04–04–95 | G–S | 50,000 | N | F | 07–01–94 | INDEF. |
| ST95–2103 | ANR PIPELINE CO .. | TORCH GAS LC ..... | 04–04–95 | G–S | 10,000 | N | F | 07–01–94 | INDEF. |
| ST95–2104 | ANR PIPELINE CO .. | ENRON CAPITAL & TRADE RESOURCES. | 04–04–95 | G–S | 20,000 | N | F | 07–01–94 | INDEF. |
| ST95–2105 | ANR PIPELINE CO .. | UNION OIL CO. DBA UNOCAL. | 04–04–95 | G–S | 32,500 | N | F | 07–01–94 | INDEF. |
| ST95–2106 | ANR PIPELINE CO .. | CMS GAS MARKETING. | 04–04–95 | G–S | 30,000 | N | F | 07–01–94 | INDEF. |
| ST95–2107 | ANR PIPELINE CO .. | NOBLE GAS MARKETING INC. | 04–04–95 | G–S | 22,500 | N | F | 07–01–94 | INDEF. |

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|---|---|---|---|---|---|---|---|---|---|
| ST95–2108 | ANR PIPELINE CO .. | SEMCO ENERGY SERVICES. | 04–04–95 | G–S | 43,576 | N | F | 07–01–94 | INDEF. |
| ST95–2109 | ANR PIPELINE CO .. | VASTAR GAS MARKETING INC. | 04–04–95 | G–S | 100,000 | N | F | 07–01–94 | INDEF. |
| ST95–2110 | ANR PIPELINE CO .. | CONOCO INC ..... | 04–04–95 | G–S | 50,000 | N | F | 07–01–94 | INDEF. |
| ST95–2111 | ANR PIPELINE CO .. | NORTHWESTERN MUTUAL LIFE. | 04–04–95 | G–S | 5,000 | N | F | 07–01–94 | INDEF. |
| ST95–2112 | ANR PIPELINE CO .. | TRIDENT NGL INC .. | 04–04–95 | G–S | 50,000 | N | F | 07–01–94 | INDEF. |
| ST95–2113 | ANR PIPELINE CO .. | OHIO GAS CO ..... | 04–04–95 | B | 40,000 | N | F | 07–01–94 | INDEF. |
| ST95–2114 | ANR PIPELINE CO .. | AQUILA ENERGY MARKETING. | 04–04–95 | G–S | 16,328 | N | F | 07–01–94 | INDEF. |
| ST95–2115 | ANR PIPELINE CO .. | ASSOCIATED GAS SERVICES. | 04–04–95 | G–S | 100,000 | N | F | 07–01–94 | INDEF. |
| ST95–2116 | ANR PIPELINE CO .. | EQUITABLE RESOURCES MARKETING. | 04–04–95 | G–S | 50,000 | N | F | 07–01–94 | INDEF. |
| ST95–2117 | ANR PIPELINE CO .. | AIG TRADING CORP. | 04–04–95 | G–S | 100,000 | N | F | 07–02–94 | INDEF. |
| ST95–2118 | ANR PIPELINE CO .. | KOCH GAS SERVICES CO. | 04–04–95 | G–S | 100,000 | N | F | 07–01–94 | INDEF. |
| ST95–2119 | ANR PIPELINE CO .. | OHIO GAS CO ..... | 04–04–95 | B | 250,000 | Y | F | 07–01–94 | INDEF. |
| ST95–2120 | ANR PIPELINE CO .. | PEOPLES GAS LIGHT & COKE CO. | 04–04–95 | G–S | 100,000 | Y | F | 12–22–94 | INDEF. |
| ST95–2121 | ANR PIPELINE CO .. | CHEVRON USA INC | 04–04–95 | G–S | 50,000 | N | F | 11–19–94 | INDEF. |
| ST95–2122 | WILLIAMS NATURAL GAS CO. | TARTAN ENERGY CO., L.C. | 04–04–95 | B | 10,100 | N | F | 04–01–95 | INDEF. |
| ST95–2123 | K N INTERSTATE GAS TRANS. CO. | K N GAS SUPLY SERVICES, INC. | 04–04–95 | G–S | 16,000 | A | F | 02–11–95 | 02–28–95 |
| ST95–2124 | KENTUCKY WEST VIRGINIA GAS CO. | PREMIER ELKHORN COAL CO. | 04–04–95 | G–S | 100 | N | I | 12–01–94 | INDEF. |
| ST95–2125 | PANHANDLE EASTERN PIPE LINE CO. | DAYTON POWER & LIGHT CO. | 04–04–95 | B | 46,080 | N | F | 04–01–95 | O3–31–04 |
| ST95–2126 | FLORIDA GAS TRANSMISSION CO. | KOCH GAS SERVICES CO. | 04–05–95 | G–S | 75,000 | N | I | 03–07–95 | INDEF. |
| ST95–2127 | ANR PIPELINE CO .. | NORCEN EXPLORER. | 04–05–95 | G–S | 50,000 | N | F | 09–01–94 | INDEF. |
| ST95–2128 | ANR PIPELINE CO .. | SHELL GAS TRADING. | 04–05–95 | G–S | 40,000 | N | F | 09–01–94 | INDEF. |
| ST95–2129 | ANR PIPELINE CO .. | BATTLE CREEK GAS. | 04–05–95 | G–S | 4,500 | Y | F | 11–12–94 | INDEF. |
| ST95–2130 | ANR PIPELINE CO .. | MIDCON GAS SERVICES CORP. | 04–05–95 | G–S | 17,000 | N | F | 10–01–94 | INDEF. |
| ST95–2131 | ANR PIPELINE CO .. | MERIDIAN OIL TRADING. | 04–05–95 | G–S | 150,000 | N | F | 10–01–94 | INDEF. |
| ST95–2132 | ANR PIPELINE CO .. | SHELL OFFSHORE INC. | 04–05–95 | G–S | 50,000 | N | F | 09–01–94 | INDEF. |
| ST95–2133 | ANR PIPELINE CO .. | AMOCO ENERGY TRADING. | 04–05–95 | G–S | 25,000 | N | F | 09–01–94 | INDEF. |
| ST95–2134 | ANR PIPELINE CO .. | NGC TRANSPORTATION INC. | 04–05–95 | GS | 10,000 | N | F | 07–30–94 | INDEF. |
| ST95–2135 | ANR PIPELINE CO .. | UTILICORP UNITED INC. | 04–05–95 | G–S | 20,243 | N | F | 08–15–94 | INDEF. |
| ST95–2136 | ANR PIPELINE CO .. | O&R ENERGY INC .. | 04–05–95 | G–S | 50,000 | N | F | 08–01–94 | INDEF. |
| ST95–2137 | ANR PIPELINE CO .. | FINA NATURAL GAS CO. | 04–05–95 | GS | 10,000 | N | F | 08–01–94 | INDEF. |
| ST95–2138 | ANR PIPELINE CO .. | MOBIL NATURAL GAS INC. | 04–05–95 | G–S | 50,000 | N | F | 08–01–94 | INDEF. |
| ST95–2139 | ANR PIPELINE CO .. | MOBIL NATURAL GAS INC. | 04–05–95 | G–S | 50,000 | N | F | 08–01–94 | INDEF. |
| ST95–2140 | ANR PIPELINE CO .. | CONOCO INC ..... | 04–05–95 | G–S | 20,000 | N | F | 08–01–94 | INDEF. |
| ST95–2141 | ANR PIPELINE CO .. | GGR ENERGY ..... | 04–05–95 | G–S | 1,500 | N | F | 08–01–94 | INDEF. |
| ST95–2142 | ANR PIPELINE CO .. | CATEX VITOL GAS INC. | 04–05–95 | G–S | 10,000 | N | F | 07–01–94 | INDEF. |
| ST95–2143 | ANR PIPELINE CO .. | OLYMPIC FUELS CO. | 04–05–95 | G–S | 20,000 | N | F | 07–01–94 | INDEF. |
| ST95–2144 | ANR PIPELINE CO .. | MICHIGAN CONSOLIDATED GAS CO. | 04–05–95 | G–S | 35,000 | N | F | 07–01–94 | INDEF. |

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|---|---|---|---|---|---|---|---|---|---|
| ST95–2145 | ANR PIPELINE CO .. | MG NATURAL GAS CORP. | 04–05–95 | G–S | 10,000 | N | F | 07–01–94 | INDEF. |
| ST95–2146 | ANR PIPELINE CO .. | TENNECO GAS MARKETING CO. | 04–05–95 | G–S | 100,000 | N | F | 07–01–94 | INDEF. |
| ST95–2147 | ANR PIPELINE CO .. | NITEX INC ..... | 04–05–95 | G–S | 36,586 | N | F | 07–07–94 | INDEF. |
| ST95–2148 | ANR PIPELINE CO .. | LIG CHEMICAL CO . | 04–05–95 | G–S | 60,000 | N | F | 08–01–94 | INDEF. |
| ST95–2149 | SEA ROBIN PIPELINE CO. | SONAT MARKETING CO. | 04–05–95 | G–S | 6,211 | Y | F | 04–01–95 | 04–30–95 |
| ST95–2150 | PACIFIC GAS TRANSMISSION CO. | SAN DIEGO GAS & ELECTRIC. | 04–05–95 | G–S | 52,508 | N | F | 10–13–94 | 10–31–23 |
| ST95–2151 | PACIFIC GAS TRANSMISSION CO. | CANSTATES MARKETING (U.S. LTD. | 04–06–95 | G–S | 50,000 | N | F | 03–10–95 | INDEF. |
| ST95–2152 | PACIFIC GAS TRANSMISSION CO. | CASCADE NATURAL GAS CORP. | 04–06–95 | G–S | 3,637 | N | I | 03–17–95 | INDEF. |
| ST95–2153 | ANR PIPELINE CO .. | CNG ENERGY SERVICES CORP. | 04–06–95 | G–S | 50,000 | N | F | 01–01–95 | INDEF. |
| ST95–2154 | ANR PIPELINE CO .. | ANR GAS SUPPLY CO. | 04–06–95 | G–S | 75,000 | Y | F | 01–08–94 | INDEF. |
| ST95–2155 | ANR PIPELINE CO .. | EASTEX HYDROCARBONS INC. | 04–06–95 | G–S | 20,000 | N | F | 02–02–95 | INDEF. |
| ST95–2156 | ANR PIPELINE CO .. | GASLANTIC CORP . | 04–06–95 | G–S | 20,000 | N | F | 01–27–95 | INDEF. |
| ST95–2157 | ANR PIPELINE CO .. | COASTAL GAS MARKETING CO. | 04–06–95 | G–S | 500 | A | F | 11–01–94 | INDEF. |
| ST95–2158 | ANR PIPELINE CO .. | MOBIL NATURAL GAS INC. | 04–06–95 | G–S | 963 | N | F | 01–01–95 | INDEF. |
| ST95–2159 | ANR PEIPELIE CO .. | TRANSCO GAS MARKETTING LCO. | 04–06–95 | G–S | 50,000 | N | F | 01–01–95 | INDEF. |
| ST95–2160 | ANR PIPELINE CO .. | CARGILL INC ..... | 04–06–95 | G–S | 50,000 | N | F | 01–05–95 | INDEF. |
| ST95–2161 | ANR PIPELINE CO .. | VASTAR GAS MARKETING INC. | 04–06–95 | G–S | 100,000 | N | F | 01–01–95 | INDEF. |
| ST95–2162 | ANR PIPELINE CO .. | CONSUMERS POWER GAS. | 04–06–95 | B | 24,400 | N | F | 01–01–95 | INDEF. |
| ST95–2163 | ANR PIPELINE CO .. | UTILICORP UNITED INC. | 04–06–95 | G–S | 15,000 | N | F | 01–03–95 | INDEF. |
| ST95–2164 | ANR PIPELINE CO .. | CHESAPEAK ENERGY CORP. | 04–06–95 | G–S | 30,000 | N | F | 01–04–95 | INDEF. |
| ST95–2165 | ANR PIPELINE CO .. | UTILICORP UNITED INC. | 04–06–95 | G–S | 25,000 | N | F | 09–03–94 | INDEF. |
| ST95–2166 | ANR PIPELINE CO .. | OHIO GAS CO ..... | 04–06–95 | B | 2,000 | A | F | 12–01–94 | INDEF. |
| ST95–2167 | ANR PIPELINE CO .. | KERR-MCGEE NATURAL GAS INC. | 04–06–95 | G–S | 2,100 | N | F | 11–01–94 | INDEF. |
| ST95–2168 | ANR PIPELINE CO .. | TENNECO GAS MARKETING CO. | 04–06–95 | G–S | 3,780 | N | F | 11–01–94 | INDEF. |
| ST95–2169 | ANR PIPELINE CO .. | COAST ENERGY GROUP INC. | 04–06–95 | G–S | 50,000 | N | F | 09–01–94 | INDEF. |
| ST95–2170 | ANR PIPELINE CO .. | CNG ENERGY SERVICES CORP. | 04–06–95 | G–S | 67,429 | N | F | 09–01–94 | INDEF. |
| ST95–2171 | ANR PIPELINE CO .. | H&N GAS LTD ..... | 04–06–95 | G–S | 5,000 | N | F | 01–02–95 | INDEF. |
| ST95–2172 | ANR PIPELINE CO .. | ENERGY SEARCH INC. | 04–06–95 | G–S | 25,000 | N | F | 02–01–95 | INDEF. |
| ST95–2173 | GULF COAST NATURAL GAS CO. | TENNESSEE GAS PIPELINE CO. | 04–06–95 | C | 10,000 | N | I | 02–01–95 | 02–01–97 |
| ST95–2174 | GULF COAST NATURAL GAS CO. | TRANSCONTINENTAL GAS PIPELINE CO. | 04–06–95 | C | 10,000 | N | I | 02–01–95 | 02–01–97 |
| ST95–2175 | GULF COAST NATURAL GAS CO. | KOCH GATEWAY PIPELINE CO. | 04–06–95 | C | 10,000 | N | I | 02–01–95 | 02–01–97 |
| ST95–2176 | WILLISTON BASIN INTER. P/L CO. | POCO PETROLEUM LTD. | 04–07–95 | G–S | 100,000 | A | I | 03–09–95 | 02–28–97 |
| ST95–2177 | TRUNKLINE GAS CO. | SHELL WESTERN E&P, INC. | 04–07–95 | G–S | 45,000 | N | F | 04–01–95 | INDEF. |
| ST95–2178 | QUESTAR PIPELINE CO. | UNIVERSAL RESOURCES CORP. | 04–07–95 | G–S | 10,000 | Y | F | 04–01–95 | 10–31–95 |
| ST95–2179 | TRUNKLINE GAS CO. | PEOPLES GAS, LIGHT AND COKE CO. | 04–07–95 | G–S | 118,000 | N | F | 04–01–95 | INDEF. |

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|---|---|---|---|---|---|---|---|---|---|
| ST95–2180 | TEXAS EASTERN TRANSMISSION CORP. | ZILKHA ENERGY CO. | 04–07–95 | G–S | 3,500 | N | I | 03–12–95 | INDEF. |
| ST95–2181 | PANHANDLE EASTERN PIPE LINE CO. | EASTERN ENERGY MARKETING, INC. | 04–07–95 | G–S | 1,200 | N | I | 04–01–95 | 02–28–97 |
| ST95–2182 | PANHANDLE EASTERN PIPE LINE CO. | PPG INDUSTRIES, INC. | 04–07–95 | G–S | 8,400 | N | F | 04–01–95 | 03–31–00 |
| ST95–2183 | PANHANDLE EASTERN PIPE LINE CO. | OXY USA INC ..... | 04–07–95 | G–S | 16,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2184 | PANHANDLE EASTERN PIPE LINE CO. | WESTFIELD GAS CORP. | 04–07–95 | G–S | 2,500 | N | I | 04–01–95 | 03–31–96 |
| ST95–2185 | NORTHERN BORDER PIPELINE CO. | KOCH GAS SERVICES CO. | 04–07–95 | G–S | 200,000 | Y | I | 04–01–95 | 03–31–97 |
| ST95–2186 | COLUMBIA GAS TRANSMISSION CORP. | US ENERGY DEVELOPMENT CORP. | 04–07–95 | G–S | 100 | N | I | 03–01–95 | INDEF. |
| ST95–2187 | MONTANA POWER CO. | COLORADO INTERSTATE GAS CO. | 04–07–95 | G–HT | 1,000 | N | I | 03–01–94 | 10–31–02 |
| ST95–2188 | MONTANA POWER CO. | COLORADO INTERSTATE GAS CO. | 04–07–95 | G–HT | 1,000 | N | I | 03–01–94 | 10–31–02 |
| ST95–2189 | PANHANDLE EASTERN PIPE LINE CO. | NATIONAL STEEL CORP. | 04–10–95 | G–S | 100,000 | N | F | 04–01–95 | 03–31–05 |
| ST95–2190 | COLORADO INTERSTATE GAS CO. | MOUNTAIN GAS RESOURCES, INC. | 04–10–95 | G–S | 10,225 | N | I | 03–23–95 | INDEF. |
| ST95–2191 | GULF STATES PIPELINE CORP. | SOUTHERN NATURAL GAS CO., ET AL. | 04–10–95 | C | 30,000 | N | I | 03–21–95 | 12–01–95 |
| ST95–2192 | NORTHERN ILLINOIS GAS CO. | ANR PIPELINE CO., ET AL. | 04–10–95 | G–HT | 305 | N | I | 03–25–95 | 04–03–95 |
| ST95–2193 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–10–95 | C | 25,000 | N | F | 04–01–95 | 11–30–95 |
| ST95–2194 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–10–95 | C | 5,000 | N | I | 04–01–95 | INDEF. |
| ST95–2195 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–10–95 | C | 5,000 | N | I | 04–01–95 | INDEF. |
| ST95–2196 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–10–95 | C | 10,000 | N | I | 04–01–95 | INDEF. |
| ST95–2197 | EAST TEXAS GAS SYSTEMS. | TENNESSEE GAS PIPELINE CO. | 04–10–95 | C | 50,000 | N | I | 02–01–95 | INDEF. |
| ST95–2198 | GAS CO. OF NEW MEXICO. | TRANSWESTERN PIPELINE CO. | 04–11–95 | G–HT | 35,000 | N | I | 04–01–95 | INDEF. |
| ST95–2199 | K N INTERSTATE GAS TRANS. CO. | WESTERN GAS RESOURCES, INC. | 04–11–95 | G–S | 2,000 | N | F | 03–22–95 | 02–28–96 |
| ST95–2200 | K N INTERSTATE GAS TRANS. CO. | HS RESOURCES, INC. | 04–11–95 | G–S | 2,500 | N | F | 04–01–95 | 04–01–00 |
| ST95–2201 | K N INTERSTATE GAS TRANS. CO. | CIBOLA CORP ..... | 04–11–95 | G–S | 3,200 | N | F | 04–02–95 | 04–03–95 |
| ST95–2202 | K N INTERSTATE GAS TRANS. CO. | WESTERN GAS RESOURCES, INC. | 04–11–95 | G–S | 8,000 | N | F | 04–01–95 | 08–31–95 |
| ST95–2203 | K N INTERSTATE GAS TRANS. CO. | COLORADO SPRINGS UTILITIES. | 04–11–95 | G–S | 12,000 | N | F | 03–25–95 | 09–30–96 |
| ST95–2204 | K N INTERSTATE GAS TRANS. CO. | ASTRA RESOURCES MARKETING, INC. | 04–11–95 | G–S | 5,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2205 | NATIONAL FUEL GAS SUPPLY CORP. | GATEWAY ENERGY INC. | 04–11–95 | G–S | 3,500 | N | I | 04–01–95 | 04–01–15 |
| ST95–2206 | KERN RIVER GAS TRANSMISSION CO. | PREMIER ENTERPRISES, INC. | 04–11–95 | G–S | 25,000 | N | I | 03–12–94 | INDEF. |
| ST95–2207 | ANR PIPELINE CO .. | DETROIT EDISON .. | 04–11–95 | G–S | 100,000 | N | F | 03–01–95 | INDEF. |
| ST95–2208 | ANR PIPELINE CO .. | WICKFORD ENERGY MARKETING. | 04–11–95 | G–S | 30,000 | N | F | 03–07–95 | INDEF. |

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| ST95–2209 | ANR PIPELINE CO .. | NATURAL GAS RESOURCES, LP. | 04–11–95 | G–S | N/A | N | F | 03–01–95 | INDEF. |
| ST95–2210 | ANR PIPELINE CO .. | EASTERN ENERGY MARKETING INC. | 04–11–95 | G–S | N/A | N | F | 03–01–95 | INDEF. |
| ST95–2211 | NORAM GAS TRANSMISSION CO. | CATEX VITOL GAS, INC. | 04–11–95 | G–S | 30,000 | N | F | 03–01–95 | 03–31–96 |
| ST95–2212 | NORAM GAS TRANSMISSION CO. | NGC TRANSPORTATION, INC. | 04–11–95 | G–S | 25,000 | N | F | 04–01–95 | 03–31–96 |
| ST95–2213 | NORAM GAS TRANSMISSION CO. | ASSOCIATED GAS SERVICES, INC. | 04–11–95 | G–S | 55,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2214 | NORAM GAS TRANSMISSION CO. | NORAM ENERGY SERVICES, INC. | 04–11–95 | G–S | 70,000 | N | F | 03–01–95 | 03–31–95 |
| ST95–2215 | NORAM GAS TRANSMISSION CO. | TIDEWEST TRADING & TRANSPORT CO. | 04–11–95 | G–S | 40,000 | N | F | 04–01–95 | 03–31–96 |
| ST95–2216 | EL PASO NATURAL GAS CO. | TEXACO GAS MARKETING INC. | 04–12–95 | G–S | 25,750 | N | I | 03–13–95 | INDEF. |
| ST95–2217 | COLORADO INTERSTATE GAS CO. | MERIDIAN OIL INC . | 04–12–95 | G–S | 8,860 | N | F | 04–01–95 | 11–30–04 |
| ST95–2218 | TENNESEE GAS PIPELINE CO. | KCS ENERGY MARKETING INC. | 04–12–95 | G–S | 6,652 | N | F | 03–24–95 | INDEF. |
| ST95–2219 | ALGONQUIN GAS TRANSMISSION CO. | CATEX VITOL GAS, INC. | 04–12–95 | G–S | 2,000 | N | F | 03–16–95 | 03–31–95 |
| ST95–2220 | ALGONQUIN GAS TRANSMISSION CO. | CHESAPEAKE ENERGY CORP. | 04–12–95 | G–S | 3,000 | N | F | 03–20–95 | 03–24–95 |
| ST95–2221 | PANHANDLE EASTERN PIPE LINE CO. | NATURAL GAS RESOURCES LP. | 04–12–95 | G–S | 225,000 | N | I | 04–01–95 | 04–30–98 |
| ST95–2222 | PANHANDLE EASTERN PIPE LINE CO. | CHESAPEAKE ENERGY CORP. | 04–12–95 | G–S | 50,000 | N | I | 04–01–95 | 01–18–96 |
| ST95–2223 | PANHANDLE EASTERN PIPE LINE CO. | CENTRAL ILLINOIS PUBLIC SERVICE CO. | 04–12–95 | G–S | 25,000 | N | F | 04–01–95 | 03–31–00 |
| ST95–2224 | PANHANDLE EASTERN PIPE LINE CO. | TENASKA MARKETING VENTURES. | 04–12–95 | G–S | 10,148 | N | F | 04–01–95 | 04–30–95 |
| ST95–2225 | PANHANDLE EASTERN PIPE LINE CO. | ANADARKO PETROLEUM CORP. | 04–12–95 | G–S | 30,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2226 | PANHANDLE EASTERN PIPE LINE CO. | AIG TRADING CORP. | 04–12–95 | G–S | 33,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2227 | PANHANDLE EASTERN PIPE LINE CO. | HOWARD ENERGY CO., INC. | 04–12–95 | G–S | 25,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2228 | PANHANDLE EASTERN PIPE LINE CO. | COASTAL GAS MARKETING CO. | 04–12–95 | G–S | 23,643 | N | F | 04–01–95 | 04–30–95 |
| ST95–2229 | PANHANDLE EASTERN PIPE LINE CO. | NATURAL GAS CLEARINGHOUSE. | 04–12–95 | G–S | 5,783 | N | F | 04–01–95 | 04–30–95 |
| ST95–2230 | PANHANDLE EASTERN PIPE LINE CO. | CATEX VITOL GAS, INC. | 04–12–95 | G–S | 20,000 | N | F | 04–01–95 | 04–30–95 |
| ST95–2231 | ONG TRANSMISSION CO. | NORAM GAS TRANSMISSION CO. | 04–12–95 | C | 2,000 | N | I | 03–26–95 | INDEF. |
| ST95–2232 | LONE STAR GAS CO. | ARKLA ENERGY RESOURCES, ET AL. | 04–13–95 | C | 20,000 | N | I | 03–14–95 | INDEF. |
| ST95–2233 | TEXAS GAS TRANSMISSION CORP. | INDIANA NATURAL GAS CORP. | 04–13–95 | G–S | 1,000 | N | F | 04–01–95 | INDEF. |

| Docket No.[1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity[2] | Aff. Y/A/N[3] | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST95–2234 | TEXAS GAS TRANSMISSION CORP. | CITY OF LEITCHFIELD. | 04–13–95 | G–S | 600 | N | F | 04–01–95 | INDEF. |
| ST95–2235 | TEXAS GAS TRANSMISSION CORP. | SWITZERLAND COUNTY NATURAL GAS CO. | 04–13–95 | G–S | 200 | N | F | 04–01–95 | INDEF. |
| ST95–2236 | TEXAS GAS TRANSMISSION CORP. | VOLUNTEER ENERGY CORP. | 04–13–95 | G–S | 10,000 | N | I | 04–01–95 | INDEF. |
| ST95–2237 | COLORADO INTERSTATE GAS CO. | WESTERN GAS RESOURCES, INC. | 04–13–95 | G–S | 10,000 | N | F | 04–01–95 | 10–21–95 |
| ST95–2238 | COLORADO INTERSTATE GAS CO. | WESTERN GAS RESOURCES, INC. | 04–13–95 | G–S | 5,000 | N | F | 04–01–95 | 10–31–95 |
| ST95–2239 | COLORADO INTERSTATE GAS CO. | AQUILA ENERGY MARKETING CORP. | 04–13–95 | G–S | 30,000 | N | F | 04–01–95 | 10–31–95 |
| ST95–2240 | COLORADO INTERSTATE GAS CO. | ASSOCIATED GAS SERVICES, INC. | 04–13–95 | G–S | 8,600 | N | F | 04–01–95 | 03–31–96 |
| ST95–2241 | COLUMBIA GULF TRANSMISSION CO. | PENNUNION ENERGY SERVICES, LLC. | 04–13–95 | G–S | 100,000 | N | I | 04–01–95 | INDEF. |
| ST95–2242 | COLUMBIA GULF TRANSMISSION CO. | CORPUS CHRISTI GAS MARKETING, LP. | 04–13–95 | G–S | 15,000 | N | I | 04–01–95 | INDEF. |
| ST95–2243 | COLUMBIA GULF TRANSMISSION CO. | CNG ENERGY SERVICES CORP. | 04–13–95 | G–S | 50,000 | N | F | 04–01–95 | INDEF. |
| ST95–2244 | COLUMBIA GULF TRANSMISSION CO. | ANR PIPELINE CO .. | 04–13–95 | G–S | 11,657 | N | I | 04–01–95 | INDEF. |
| ST95–2245 | NORTHWEST PIPELINE CORP. | IGI RESOURCES, INC. | 04–13–95 | G–S | 25,000 | N | F | 04–01–95 | INDEF. |
| ST95–2246 | SEA ROBIN PIPELINE CO. | ENERGY SOURCE INC. | 04–14–95 | G–S | 20,000 | Y | I | 04–12–95 | INDEF. |
| ST95–2247 | MISSISSIPPI RIVER TRANS. CORP. | VASTAR GAS MARKETING, INC. | 04–17–95 | G–S | 150,000 | Y | I | 03–14–95 | INDEF. |
| ST95–2248 | WILLIAMS NATURAL GAS CO. | BROCK GAS SYSTEMS, INC. | 04–17–95 | G–S | 75 | N | I | 02–28–95 | 01–14–96 |
| ST95–2249 | WILLIAMS NATURAL GAS CO. | GEDI, INC ..... | 04–17–95 | G–S | 100 | N | I | 02–01–95 | 7–31–95 |
| ST95–2250 | TEXAS GAS TRANSMISSION CORP. | LOUISVILLE GAS AND ELECTRIC CO. | 04–17–95 | G–S | 8,000 | N | F | 04–01–95 | INDEF. |
| ST95–2251 | TEXAS GAS TRANSMISSION CORP. | LOUISVILLE GAS AND ELECTRIC CO. | 04–17–95 | G–S | 8,000 | N | F | 04–01–95 | INDEF. |
| ST95–2252 | TEXAS GAS TRANSMISSION CORP. | LOUISVILLE GAS AND ELECTRIC CO. | 04–17–95 | G–S | 8,000 | N | F | 04–01–95 | INDEF. |
| ST95–2253 | GULF COAST NATURAL GAS CO. | TRANSCONTINENTAL GAS PIPELINE CO. | 04–17–95 | C | 10,000 | N | I | 04–05–95 | 04–05–97 |
| ST95–2254 | TRANSOK, INC ..... | MISS. RIVER TRANS. CORP., ET AL. | 04–17–95 | C | 10,000 | N | I | 04–01–95 | INDEF. |
| ST95–2255 | CNG TRANSMISSION CORP. | PERRY GAS COMPANIES, INC. | 04–21–95 | G–S | 5,000 | N | I | 03–21–95 | 05–31–95 |
| ST95–2256 | CNG TRANSMISSION CORP. | HOPE GAS, INC ..... | 04–21–95 | G–S | 91,241 | N | F | 04–02–95 | 03–31–01 |
| ST95–2257 | SOUTHERN NATURAL GAS CO. | CITY OF TRUSSVILLE. | 04–21–95 | G–S | 50,000 | N | I | 03–22–95 | INDEF. |
| ST95–2258 | NATURAL GAS P/L CO. OF AMERICA. | COASTAL GAS MARKETING CO. | 04–21–95 | G–S | 15,000 | N | F | 04–01–95 | 10–31–95 |
| ST95–2259 | PANHANDLE EASTERN PIPE LINE CO. | PREMIER ENTERPRISES, INC. | 04–21–95 | G–S | 500 | N | I | 04–01–95 | 03–31–97 |
| ST95–2260 | PANHANDLE EASTERN PIPE LINE CO. | CHESAPEAKE ENERGY. | 04–21–95 | G–S | 20,000 | N | I | 04–01–95 | 03–31–97 |

| Docket No.[1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity[2] | Aff. Y/A/N[3] | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST95–2261 | PANHANDLE EASTERN PIPE LINE CO. | KOCH GAS SERVICES CO. | 04–21–95 | G–S | 50,000 | N | I | 04–01–95 | 03–31–97 |
| ST95–2262 | COLORADO INTERSTATE GAS CO. | YOUNG GAS STORAGE CO., LTD. | 04–21–95 | G–S | 24,260 | Y | I | 04–01–95 | INDEF. |
| ST95–2263 | FLORIDA GAS TRANSMISSION CO. | MOBIL NATURAL GAS, INC. | 04–21–95 | G–S | 100,000 | N | I | 04–01–95 | INDEF. |
| ST95–2264 | KERN RIVER GAS TRANSMISSION CO. | DESERT PALACE, INC. | 04–21–95 | G–S | 700 | N | I | 03–27–95 | INDEF. |
| ST95–2265 | TRAILBLAZER PIPELINE CO. | MIDCON GAS SERVICES CORP. | 04–19–95 | G–S | 72,500 | Y | F | 04–01–95 | 04–30–95. |
| ST95–2266 | COLORADO INTERSTATE GAS CO. | ASSOCIATED GAS SERVICES, INC. | 04–19–95 | G–S | 4,958 | N | I | 04–01–95 | INDEF. |
| ST95–2267 | FLORIDA GAS TRANSMISSION CO. | EXXON CORP ..... | 04–24–95 | G–S | 100,000 | N | I | 04–01–95 | INDEF. |
| ST95–2268 | FLORIDA GAS TRANSMISSION CO. | NGC TRANSPORTATION, INC. | 04–24–95 | G–S | 500,000 | N | I | 04–01–95 | INDEF. |
| ST95–2269 | TENNESSEE GAS PIPELINE CO. | CHEVRON USA, INC. | 04–24–95 | G–S | 3 | N | F | 03–25–95 | INDEF. |
| ST95–2270 | TENNESSEE GAS PIPELINE CO. | DIRECT GAS SUPPLY CORP. | 04–24–95 | G–S | 4 | N | F | 03–23–95 | INDEF. |
| ST95–2271 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–24–95 | C | 5,000 | N | I | 04–01–95 | INDEF. |
| ST95–2272 | TRANSOK, INC ..... | ANR PIPELINE CO., ET AL. | 04–24–95 | C | 80,000 | N | I | 04–01–95 | INDEF. |
| ST95–2273 | CORPUS CHRISTI TRANSMISSION CO. | REYNOLDS METALS CO. | 04–21–95 | G–S | 21,000 | N | I | 01–01–95 | 06–30–95. |
| ST95–2274 | NORTHERN ILLINOIS GAS CO. | ANR PIPELINE CO., ET AL. | 04–24–95 | G–HT | 18,267 | N | I | 04–04–95 | 04–13–95. |
| ST95–2275 | CENTANA INTRASTATE PIPELINE CO. | UNITED GAS TRANSMISSION CORP. | 04–21–95 | C | 25,000 | N | I | 03–22–95 | INDEF. |
| ST95–2276 | NATURAL GAS P/L CO. OF AMERICA. | SUPERIOR NATURAL GAS CORP. | 04–25–95 | G–S | 10,000 | N | I | 03–25–95 | INDEF. |
| ST95–2277 | TEXAS EASTERN TRANSMISSION CORP. | KOCH GAS SERVICES CO. | 04–25–95 | G–S | 15,000 | N | I | 04–01–95 | INDEF. |
| ST95–2278 | TEXAS EASTERN TRANSMISSION CORP. | COASTAL GAS MARKETING CO. | 04–25–95 | G–S | 23,640 | N | F | 04–01–95 | INDEF. |
| ST95–2279 | TEXAS EASTERN TRANSMISSION CORP. | ALATENN ENERGY MARKETING CO. | 04–25–95 | G–S | 80,000 | N | I | 03–31–95 | INDEF. |
| ST95–2280 | TEXAS EASTERN TRANSMISSION CORP. | ENERGY SOURCE INC. | 04–25–95 | G–S | 100,000 | N | I | 04–10–95 | INDEF. |
| ST95–2281 | TEXAS EASTERN TRANSMISSION CORP. | NATIONAL GAS RESOURCES, LP. | 04–25–95 | G–S | 100,000 | N | I | 04–01–95 | INDEF. |
| ST95–2282 | TENNESSEE GAS PIPELINE CO. | CENERGY, INC ..... | 04–25–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2283 | TENNESSEE GAS PIPELINE CO. | PITTSBURGH CORNING CORP. | 04–25–95 | G–S | 700 | N | F | 04–01–95 | INDEF. |
| ST95–2284 | TENNESSEE GAS PIPELINE CO. | GULF COAST ENERGY, INC. | 04–25–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2285 | TENNESSEE GAS PIPELINE CO. | CHANNEL GAS MARKETING CO. | 04–25–95 | G–S | 100,000 | A | I | 04–04–95 | INDEF. |
| ST95–2286 | TENNESSEE GAS PIPELINE CO. | COASTAL GAS MARKETING CO. | 04–25–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2287 | TENNESSEE GAS PIPELINE CO. | HADSON GAS SYSTEMS INC. | 04–25–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2288 | MIDWESTERN GAS TRANSMISSION CO. | MOBIL NATURAL GAS INC. | 04–25–95 | G–S | 7,000 | N | F | 04–01–95 | INDEF. |

| Docket No.[1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity[2] | Aff. Y/A/N[3] | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST95–2289 | COLUMBIA GAS TRANSMISSION CORP. | CORNING, INC ..... | 04–25–95 | G–S | 1,010 | N | F | 04–01–95 | 10–31–95. |
| ST95–2290 | COLUMBIA GAS TRANSMISSION CORP. | STAND ENERGY CORP. | 04–25–95 | G–S | 1,000 | N | F | 04–01–95 | INDEF. |
| ST95–2291 | COLUMBIA GAS TRANSMISSION CORP. | ATLAS ENERGY GROUP, INC. | 04–25–95 | G–S | 25,000 | N | I | 04–11–95 | INDEF. |
| ST95–2292 | COLUMBIA GAS TRANSMISSION CORP. | TRISTAR VENTURES CORP. | 04–25–95 | G–S | 3,000 | N | I | 04–01–95 | INDEF. |
| ST95–2293 | COLUMBIA GAS TRANSMISSION CORP. | SOUTHEASTERN NATURAL GAS CO. | 04–25–95 | B | 10,000 | N | I | 04–01–95 | INDEF. |
| ST95–2294 | COLUMBIA GAS TRANSMISSION CORP. | TRISTAR VENTURES CORP. | 04–25–95 | G–S | N/A | N | I | 04–01–95 | INDEF. |
| ST95–2295 | TENNESSEE GAS PIPELINE CO. | NATIONAL GAS RESOURCES LP. | 04–26–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2296 | TENNESSEE GAS PIPELINE CO. | GGR ENERGY ..... | 04–26–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2297 | TENNESSEE GAS PIPELINE CO. | TEXAS-OHIO GAS, INC. | 04–26–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2298 | IROQUOIS GAS TRANSMISSION SYSTEM. | CNG ENERGY SERVICES CORP. | 04–27–95 | G–S | 35,000 | N | F | 04–01–95 | 05–01–95 |
| ST95–2299 | NATURAL GAS P/L CO. OF AMERICA. | PETRO SOURCE GAS VENTURES. | 04–27–95 | G–S | 50,000 | N | I | 04–01–95 | INDEF. |
| ST95–2300 | NATURAL GAS P/L CO. OF AMERICA. | UNITED STATES GYPSUM CO. | 04–27–95 | G–S | 1,400 | N | F | 04–01–95 | 04–30–96. |
| ST95–2301 | TENNESSEE GAS PIPELINE CO. | TRANSCO GAS MARKETING CO. | 04–27–95 | G–S | 4 | N | F | 04–02–95 | INDEF. |
| ST95–2302 | TENNESSEE GAS PIPELINE CO. | SCANA HYDROCARBONS, INC. | 04–27–95 | G–S | 1 | N | F | 04–01–95 | INDEF. |
| ST95–2303 | TENNESSEE GAS PIPELINE CO. | PHIBRO DIVISION OF SALOMON, INC. | 04–27–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2304 | COLUMBIA GULF TRANSMISSION CO. | HADSON GAS SYSTEMS, INC. | 04–27–95 | G–S | 12,288 | N | F | 04–01–95 | 01–10–98. |
| ST95–2305 | EL PASO NATURAL GAS CO. | ARCO PERMIAN, UNIT OF ARCO. | 04–27–95 | G–S | 4,120 | N | I | 04–01–95 | INDEF. |
| ST95–2306 | EL PASO NATURAL GAS CO. | OASIS PIPE LINE CO. | 04–27–95 | B | 100,000 | N | I | 04–01–95 | INDEF. |
| ST95–2307 | TENNESSEE GAS PIPELINE CO. | POLARIS PIPELINE CORP. | 04–28–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2308 | TENNESSEE GAS PIPELINE CO. | WESTERN GAS RESOURCES, INC. | 04–28–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2309 | TENNESSEE GAS PIPELINE CO. | PENNZOIL EXPLORATION AND PRODUCTION. | 04–28–95 | G–S | 44 | N | I | 04–01–95 | INDEF. |
| ST95–2310 | TENNESSEE GAS PIPELINE CO. | MOBIL NATURAL GAS, INC. | 04–28–95 | G–S | 845 | N | I | 04–01–95 | INDEF. |
| ST95–2311 | TENNESSEE GAS PIPELINE CO. | H & N GAS, LTD ..... | 04–28–95 | G–S | 4 | N | F | 04–01–95 | INDEF. |
| ST95–2312 | NATURAL GAS P/L CO. OF AMERICA. | WESTERN GAS RESOURCES, INC. | 04–28–95 | G–S | 5,000 | N | F | 04–01–95 | 08–31–95. |
| ST95–2313 | PACIFIC GAS TRANSMISSION CO. | PANCANADIAN PETROLEUMS LTD. | 04–28–95 | G–S | 200,000 | N | I | 03–30–95 | INDEF. |
| ST95–2314 | PACIFIC GAS TRANSMISSION CO. | CONTINENTAL ENERGY MARKETING LTD. | 04–28–95 | G–S | 10,000 | N | I | 04–14–95 | INDEF. |
| ST95–2315 | DELHI GAS PIPELINE CORP. | ANR PIPELINE CO., ET AL. | 04–28–95 | C | 70,000 | N | I | 04–01–95 | INDEF. |

[1] NOTICE OF TRANSACTIONS DOES NOT CONSTITUTE A DETERMINATION THAT FILINGS COMPLY WITH COMMISSION REGULATIONS IN ACCORDANCE WITH ORDER NO. 436 (FINAL RULE AND NOTICE REQUESTING SUPPLEMENTAL COMMENTS, 50 FR 42,372, 10/10/85).

[2] ESTIMATED MAXIMUM DAILY VOLUMES INCLUDES VOLUMES REPORTED BY THE FILING COMPANY IN MMBTU, MCF AND DT.

[3] AFFILIATION OF REPORTING COMPANY TO ENTITIES INVOLVED IN THE TRANSACTION. A ''Y'' INDICATES AFFILIATION, AN ''A'' INDICATES MARKETING AFFILIATION, AND A ''N'' INDICATES NO AFFILIATION.

[FR Doc. 95–13081 Filed 5–26–95; 8:45 am]
BILLING CODE 6717–01–P–M

**[Docket No. RP94–43–012]**

## ANR Pipeline Co., In FERC Gas Tariff

May 23, 1995.

Take notice that on May 18, 1995, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, required by the Commission to be effective March 1, 1995:

Third Revised Sheet No. 176
Third Revised Sheet No. 187
First Revised Sheet No. 187.1
Original Sheet No. 187.2

ANR states that the above-referenced tariff sheets are being filed in compliance with the Commission's May 3, 1995, ''Order on Compliance Filing'' in Docket No. RP94–43–011.

ANR states that all of its FERC Gas Tariff, Second Revised Volume No. 1 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 in accordance with rule 211 of the Commission's Rules of practice and procedure (18 CFR 385.211). All such protests should be filed on or before May 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13083 Filed 5–26–95; 8:45 am]
BILLING CODE 6717–01–M

**[Docket No. SA95–4–000]**

## Lee 8 Storage Partnership; Petition for Adjustment

May 23, 1995.

Take notice that on May 5, 1995, Lee 8 Storage Partnership (Lee 8) 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 Lee 8 to use its tariff on file with the Michigan Public Service Commission (MPSC) for services performed pursuant to NGPA section 311.

In support of its petition, Lee states that it is an intrastate gas storage service in the State of Michigan and is a gas utility subject to the jurisdiction of the MPSC. The sole operating asset of Lee 8 Storage Field. The Lee 8 Storage Field is located adjacent to the Lee 3 Storage Field, which is owned and operated by Michigan Gas Utilities, a Michigan local distribution company (MGU) and may be directly interconnected with the facilities of MGU at minimal cost. Lee 8's storage rates are subject to regulation by the MPSC. Lee 8 anticipates providing section 311 storage service on behalf of interstate pipeline companies or local distribution companies served by interstate pipeline companies for a charge not to exceed the rates on file with the MPSC, as follows:

| | Minimum | Maximum |
|---|---|---|
| 1. Based on 100 day firm storage service. | $0.25 per Mcf | $1.75 per Mcf. |

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.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13084 Filed 5–26–95; 8:45 am]
BILLING CODE 6717–01–M

**[Docket No. TM95–4–25–002]**

## Mississippi River Transmission Corp.; Refund Report

May 23, 1995.

Take notice that on May 11, 1995, Mississippi River Transmission Corporation (MRT), tendered for filing a refund report reflecting the distribution of refund amounts by MRT to its affected customers pursuant to section 17.1(b) of MRT's tariff. The amounts being refunded are the flowthrough of excess revenues derived from providing services under Rate Schedules ITS and ISS and certain revenues derived from authorized overrun service (AOS) received during the twelve month period ended October 31, 1994, including interest from November 1, 1994, through April 12, 1995.

MRT states that the refunds were paid on April 13, 1995. MRT states that the total refunds covered by the instant filing amount to $333,462.07, inclusive of principal and interest.

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 regulations. All such protests should be filed on or before May 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13085 Filed 5–26–95; 8:45 am]
BILLING CODE 6717–01–M

**[Docket No. RP95-300-000]**

## Questar Pipeline Co.; Termination of Gathering Service

May 23, 1995.

Take notice that on May 18, 1995, Questar Pipeline Company (Questar) filed, pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering service it provides to Chevron U.S.A. Production Company (Chevron).

Questar states that by letter of April 21, 1995, Chevron notified Questar of its election to terminate Contract No. TH–112OH (Questar's Contract No. 00702 G–2) effective May 31, 1995, pursuant to Article 3 of the contract. Questar states that under the contract, it provided gathering service from Chevron's Government FS Prince #1 well through Questar's gathering Lateral Nos. 523–1 and 521. According to Questar, Chevron has expressed interest in purchasing Lateral No. 523–1 so that it could gather its own gas. The parties are currently negotiating a purchase and sale agreement for Lateral No. 523–1 and expect to execute the agreement in the near future. Questar asserts that Lateral No. 523–1 was never certificated and that Chevron is the only customer receiving gathering service over this facility. Questar explains that Chevron's well is the only one attached to this facility, and since Chevron will be providing its own gathering service after the sale of the lateral, there are no continuity of service issues in connection with the proposed termination of this gathering service by Questar.

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 §§ 385.211 and 385.214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before May 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. And person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13086 Filed 5–26–95; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket Nos. RP94–119–000, et al.]**

## Texas Gas Transmission Corp.; Informal Settlement Conference

May 23, 1995.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding on May 25, 1995, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208–1076, or Russell B. Mamone (202) 208–0744.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13087 Filed 5–26–95; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP95–299–000]**

## Viking Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

May 23, 1995.

Take notice that on May 16, 1995, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet, proposed to be effective May 4, 1995:

Second Revised Sheet No. 72

Viking states that the purpose of the filing is to conform its tariff to the requirements of Order No. 577. In particular, Viking proposes to modify the capacity release provisions of its tariff by: (1) Increasing from 30 days to one calendar month the period during which capacity can be released at less than the maximum rate without prior posting or bidding; and (2) decreasing from 30 days to 28 days the period during which such ''short term'' releases cannot be rolled-over, without prior posting and bidding, at less than the maximum rate. Viking also notes that its existing tariff already provides for prearranged releases at the maximum rate, without prior posting or bidding.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street 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 May 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13088 Filed 5–26–95; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP95–302–000]**

## Young Gas Storage Company, Ltd.; Tariff Filing

May 23, 1995.

Take notice that on May 19, 1995, Young Gas Storage Company, Ltd. (Young) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective June 1, 1995:

First Revised Sheet No. 9
First Revised Sheet No. 14
First Revised Sheet No. 15
First Revised Sheet No. 16
First Revised Sheet No. 24
First Revised Sheet No. 28
First Revised Sheet No. 30
First Revised Sheet No. 31
First Revised Sheet No. 36
First Revised Sheet No. 41
First Revised Sheet No. 47
First Revised Sheet No. 48
First Revised Sheet No. 50
First Revised Sheet No. 53
First Revised Sheet No. 54
First Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 57
First Revised Sheet No. 58
First Revised Sheet No. 59
First Revised Sheet No. 60
First Revised Sheet No. 61
First Revised Sheet No. 62
First Revised Sheet No. 63
First Revised Sheet No. 64
First Revised Sheet No. 65
First Revised Sheet No. 66
First Revised Sheet No. 67
First Revised Sheet No. 68
First Revised Sheet No. 71
First Revised Sheet No. 74
First Revised Sheet No. 76
First Revised Sheet No. 77
First Revised Sheet No. 84
First Revised Sheet No. 105

Young states that it proposes housekeeping and other revisions to its tariff. Young states that this includes, in part, title, phone number, reference and definition changes. In addition, changes also included are: (1) Deliveries will be made non a thermal equivalent basis upon receipt volumes less fuel reimbursement, (ii) firm customers will be credited with interruptible revenues, net of variable costs as required by the March 3, 1994, Order Granting Preliminary Determination in Docket

No. CP93–541–000, and (iii) modified the capacity release portion to more closely reflect that of Colorado Interstate Gas Company, the operator of Young, and also to reflect changes associated with Order No. 577 issued March 29, 1995, in Docket No. RP95–5–000.

Young states that copies of this filing were served upon all holders of its FERC tariff, which becomes effective June 1, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before May 31, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the public reference room.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 95–13089 Filed 5–26–95; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPTS–211041; FRL–4954–3]**

## Response to TSCA Section 21 Petition for Regulations Requiring Public Notice and Comment Prior to the Issuance of Certain PCB Commercial Storage or Disposal Approvals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; Denial of TSCA Section 21 Petition.

**SUMMARY:** This notice responds to a citizen's petition submitted by FulCircle Ballast Recyclers under section 21 of the Toxic Substances Control Act (TSCA) to initiate a rulemaking to require public notice and comment prior to granting approvals under section 6(e) of TSCA for certain facilities handling fluorescent lighting ballasts that contain Polychlorinated Biphenyls (PCBs). EPA is denying this petition because EPA does not believe that issuing a rule to require public notice and comment prior to approval of commercial storage facilities and alternate destruction methods which handle fluorescent lighting ballasts is necessary. However, EPA does agree that public notice and comment should be part of the approval process. To that end, EPA will clarify to the approving authorities that public notice and an opportunity for comment must be provided prior to decision on all storage and disposal approvals. The first step of this process has been accomplished by a letter from the Assistant Administrator from the Office of Prevention, Pesticides, and Toxic Substances (OPPTS) to the Regional Administrators clearly stating the substance of and rationale for EPA's policy. Further, EPA will revise its existing TSCA approval guidance to more clearly define the notice and comment procedures which are to be followed when conducting a review of an application for a PCB storage or disposal approval.

**ADDRESSES:** Copies of the petition and all related information used by the Agency to develop this response are located in the TSCA Non-Confidential Information Center (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. B–607, Northeast Mall, 401 M St., SW., Washington, DC 20460. They are available for review and copying from 12 noon to 4 p.m., Monday through Friday, except for legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In this notice, EPA is responding to the petition of FulCircle Ballast Recyclers under section 21 of TSCA, 15 U.S.C. 2620, requesting that rules be issued under 40 CFR part 761 to require public notice and comment prior to the issuance of certain approvals to commercially store and dispose of fluorescent lighting ballasts.

### I. Background

*A. TSCA Section 21*

Section 21 of TSCA provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8, or an order under section 5(e) or 6(b)(2) of TSCA. Section 21(b)(3) requires that EPA grant or deny a petition within 90 days of its filing. If EPA grants a section 21 petition, EPA must promptly commence an appropriate proceeding in accordance with the relevant TSCA section. If EPA denies the petition, the reasons for denial must be published in the **Federal Register**.

If EPA denies a petition within 90 days of the filing date, or fails to grant or deny within the 90–day period, the petitioner may commence a civil action in a Federal district court to compel EPA to initiate the requested action. This suit must be filed within 60 days of the denial, or within 60 days of the expiration of the 90–day period if EPA fails to grant or deny the petition within that period.

*B. Summary of Petition*

By petition dated February 14, 1995 (EPA received the petition on February 17, 1995), FulCircle Ballast Recyclers (herein referred to as ''petitioner'') requested EPA, under section 21 of TSCA, to initiate rulemaking to require public notice and comment prior to granting approvals under 40 CFR part 761 for certain facilities handling fluorescent lighting ballasts that contain PCBs. Specifically, there are two parts to the petition. First, the petitioner requested that there should be public notice and comment in connection with EPA approvals under the following sections:

(1) Section 761.65(d), approval of commercial storers of PCB waste, where the waste involved is fluorescent lighting ballasts containing PCBs.

(2) Section 761.60(e), approval of alternative methods of destruction of PCBs, if the proposal involves fluorescent lighting ballasts containing PCBs at a facility where the alternative technology will be operated.

Second, the petitioner requested a ruling by EPA temporarily holding in abeyance regulatory approval action by EPA's Regional offices on any applications under the sections mentioned above dealing with fluorescent lighting ballasts containing PCBs until there has been a reasonable opportunity for public notice and comment on those applications.

The petitioner is currently in the business of recycling PCB-containing lighting ballasts for disposal and has an approval issued by EPA Region II to do so. The petitioner removes the PCB-containing capacitors and potting materials from the ballasts, which are disposed of at an approved PCB disposal facility, and recycles the copper, aluminum and steel components. It is the petitioner's position that there should be nationally uniform rules assuring notice and an opportunity for the public to comment on applications pursuant to § 761.65(d) and § 761.60(e) for facilities handling fluorescent lighting ballasts containing PCBs and that EPA should respond to

those comments before acting on the applications.

In support of the petition, the petitioner states that public notice and comment allows for those knowledgeable about the management of PCBs to review an application from a sophisticated point of view, and therefore raise pertinent questions based on that knowledge. In addition, it allows for those living and working in the vicinity of the facility's location to review the application from a local point of view, allowing for sensitivity to problems not readily apparent to someone outside the locality of the operation.

In further support of its request, the petitioner cites 40 CFR part 124, which establishes procedures, including notice and comment requirements, for issuing RCRA, UIC, PSD and NPDES permits and asks that EPA apply the appropriate provisions of these regulations to TSCA approvals for PCBs. In addition, the petitioner asserts that the Superfund program requires extensive public involvement in connection with site cleanups. Also, in the case of commercial storers of PCB waste, EPA published a **Federal Register** notice on June 10, 1991 (56 FR 26673) soliciting comments on the qualifications of the applicants and their principals and key employees to engage in PCB commercial storage activities.

Lastly, the petitioner points out that it is already a ''widely held practice'' in many EPA Regions to provide for public notice and a public comment period for applications involving PCB recycling, storage and disposal operations and cites three examples of this common practice by EPA, including the petitioner's own approval recently issued by Region II.

## II. EPA's Decision

EPA agrees with the petitioner's underlying premise that there should be public notice and comment prior to issuing commercial storage or disposal approvals under the TSCA PCB regulations. However, EPA is denying the petition because it does not believe it is necessary to write a Federal regulation to achieve this end.

EPA believes it is important to have public notice and comment prior to the issuance of certain commercial storage and disposal approvals for many of the reasons the petitioner has stated in its request. In fact, EPA's existing TSCA approval guidance (Guidance Manual for Writers of PCB Disposal Permits for Alternate Technologies, October 1, 1988 (Ref. 2)) requires public notice and comment prior to the issuance of an alternate disposal technology approval. The failure to follow this guidance for one disposal approval was an isolated instance resulting from a misunderstanding between Headquarters and the Regional office and is not to be considered as reflecting EPA's philosophy or practice as a whole.

The input of the public, especially those in the vicinity of a proposed commercial storage or disposal facility, must play a role in the issuance of an approval to operate such a facility. By informing the public and receiving public input, EPA can achieve its goal of protecting public health and the environment while at the same time not unfairly subjecting any citizen to unjust or disproportionate environmental impacts.

In the PCB program, most approval applications mentioned by the petitioner are granted or denied by the Regional Administrators; however, the Director of CMD at Headquarters also has the authority to act on such requests. Therefore, the review process is under EPA's control and direction. With this in mind, EPA will revise its existing TSCA approval guidance to more clearly define the notice and comment procedures which are to be followed when conducting a review of an application for a PCB storage or disposal approval. The revised guidance that approving authorities have been directed to follow will include specific procedures to follow when conducting public notice and comment. The procedures will include such things as the format and content of the public notice, timing of the notice, length of time it should appear, length of comment period, and procedures for responding to and incorporating comments into the final approval. Not only will the procedures be revised, but the scope of the guidance will be expanded to include public notice and an opportunity for comment prior to a decision on not only approvals relating to fluorescent light ballast, but on all fixed-site storage and disposal approvals issued pursuant to 40 CFR 761.60(a)(5), 761.60(e), 761.65(d), 761.70 and 761.75.

Amending EPA's existing guidance as opposed to initiating rulemaking will be a quick and relatively economical way to implement the petitioner's request for a consistent national policy. Given EPA's firm commitment to the principle of notice and comment prior to issuance of PCB approvals, we do not see what added value is provided by implementing this principle through more costly, and ultimately less flexible rulemaking procedures.

As a matter of record, and as evidence in support of EPA's commitment to adhere to the guidance, EPA Headquarters has notified the Regional Administrators that public notice and comment must be part of the approval process and has received written assurances from all ten of its Regional offices that they heartily endorse and will implement EPA's policy to provide public notice and an opportunity for comment prior to the issuance of fixed-site commercial storage or disposal approvals.

Lastly, on February 21, 1995, the President announced a new initiative mandating a line-by-line review of all existing regulations in the Code of Federal Regulations (CFR). The intent of this initiative is to move towards a regulatory system that focusses on results rather than procedures and, towards that end, to eliminate any unnecessary Federal regulatory language that appears in the CFR. EPA believes that it would be at odds with this Presidential initiative if it were to add to the CFR procedural rules for issuing commercial storage and disposal approvals when the same result can be achieved through issuance of clear guidance to Regional and Headquarters decisionmakers on precisely what notice and comment opportunities must be provided in connection with the issuance of PCB storage and disposal approvals.

## III. Record

EPA has established a record for its response to this petition under Docket number OPPTS–211041. The record contains the basic information considered by EPA in reaching this decision.

The following references are included in the record for this action:

(1) Petition submitted to USEPA by Karl R. Morthole representing FulCircle Ballast Recyclers (February 14, 1995) and attachments.

(2) Guidance Manual for Writers of PCB Disposal Permits for Alternate Technologies (October 1, 1988).

(3) Reinventing Environmental Regulation, President Bill Clinton and Vice President Al Gore, March 16, 1995.

(4) Letter from Lynn R. Goldman, M.D., Assistant Administrator, OPPTS, to the Regional Administrators requesting public notice and comment be part of their PCB commercial storage and disposal approval process (April 11, 1995).

(5) Replies to Dr. Goldman's April 11, 1995 letter from the Regional Administrators affirming their support for public notice and comment being a part of their PCB commercial storage and disposal approval process.

Region I, May 1, 1995

Region II, May 11, 1995
Region III, May 4, 1995
Region IV, May 3, 1995
Region V, April 28, 1995
Region VI, April 24, 1995
Region VII, May 1, 1995
Region VIII, May 2, 1995
Region IX, May 2, 1995
Region X, April 18, 1995

**IV. Conclusion**

For the reasons detailed above, EPA is denying the petition filed by FulCircle Ballast Recyclers under section 21 of TSCA.

**Authority:** 15 U.S.C. 2620.

Dated: May 22, 1995.

**Lynn R. Goldman,**

*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 95–13136 Filed 5–26–95; 8:45 am]

BILLING CODE 6560–50–F

**[FRL–5212–9]**

## Georgia Transformer Site; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Georgia Transformer Site (Site) located in Thomasville, Georgia, with approximately 80 potentially responsible parties (PRPs) at the Site. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement and a list of proposed settling parties are available from: Mr. Greg Armstrong, Enforcement Project Manager, U.S. Environmental Protection Agency, Region IV, Waste Programs Branch, Waste Management Division, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347–5059 ext. 6188.

Written comment may be submitted to the person above within 30 days of the date of publication.

Dated: May 19, 1995.

**Richard D. Green**

*Acting Director, Waste Management Division.*

[FR Doc. 95–13245 Filed 5–26–95; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

## Semiannual Report of Payment Accepted From Non-Federal Sources Under 31 U.S.C. 1353; for the Period Beginning October 1, 1994 and Ending March 31, 1995; Summary Report

*Reimbursement/In-kind Payments In Excess of $250*

Total Number of Sponsored Events: 65.

Total Number of Sponsoring Organizations: 59.

Total Number of Different Commissioners/Employees Attending: 67.

*Total Amount of Reimbursement Received*

| | Check | In-kind |
|---|---|---|
| In excess of $250 ..... | $63,591.98 | $29,472.74 |
| Under $250 (Detail not included) ..... | 568.25 | 321.48 |
| Total ..... | 64,160.23 | 29,794.22 |

1. *Agency:* Federal Communications Commission.
2. *Employee:* Ralph A. Haller.
*Government position:* Chief, Private Radio Bureau.
3. *Event:* Annual Technical Conference of the Communication and Signal Division of AAR.
4. *Sponsor of Event:* Association of American Railroads—AAR.
5. *Sponsor Address:* 50 F Street, N.W., Washington, D.C. 20001.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/22–24/94.
9. *Travel Dates:* 08/20–27/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In-kind |
| 1. Roundtrip Transportation ..... | $416.00 | ..... |
| 2. Hotel Room ..... | ..... | $122.52 |
| 3. Meals ..... | 161.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 48.00 | ..... |
| | 625.50 | 122.52 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Catherine K. Sandoval.
*Government position:* Attorney, Office of International Communications.
3. *Event:* Panel on ''Regulatory Regimes and the Global Information Infrastructure''.
4. *Sponsor of Event:* American Bar Association—ABA.
5. *Sponsor Address:* 750 North Lake Shore Drive, Chicago, IL 60611.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 08/07/94.
9. *Travel Dates:* 08/05–07/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In-kind |
| 1. Roundtrip Transportation ..... | $416.00 | ..... |
| 2. Hotel Room ..... | 198.00 | ..... |
| 3. Meals ..... | 68.00 | ..... |
| 4. Fax, Telephone & Taxi ..... | 78.70 | ..... |
| | 760.70 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael L. Katz.
*Government position:* Chief Economist, Office of Plans and Policy.
3. *Event:* Panel Discussion ''Regulatory Regimes and the Global Information Infrastructure''.
4. *Sponsor of Event:* American Bar Association—ABA.
5. *Sponsor Address:* Young Lawyers Division, 750 North Lake Shore Drive, Chicago, IL 60611.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 08/07/94.
9. *Travel Dates:* 08/06–07/94.
10. (a)

| Nature of benefit: | (c) Type & amount of payment | |
|---|---|---|
| | Check | In-kind |
| 1. Roundtrip Transportation ..... | $416.00 | ..... |
| 2. Hotel Room ..... | 66.00 | ..... |
| 3. Meals ..... | 42.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 67.00 | ..... |
| | 591.50 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Fred L. Thomas.
*Government position:* Electronics Engineer, Office of Engineering & Technology.

3. *Event:* PCS Conference.
4. *Sponsor of Event:* AIC Conference.
5. *Sponsor Address:* 50 Broad Street, 19th Floor, New York, NY 10004.
6. *Location of Event:* New York, New York.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/09–10/94.
9. *Travel Dates:* 06/08–09/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In-kind |
| 1. Roundtrip Transportation | ..... | $232.00 |
| 2. Hotel Room | ..... | 147.00 |
| 3. Meals | $49.00 | ..... |
| 4. Parking, Mileage & Taxi | 67.50 | ..... |
| | 116.50 | 379.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Carol Mattey.
*Government position:* Deputy Chief, Policy & Planning Division, Common Carrier Bureau.
3. *Event:* Semi-Annual Conference ACTA.
4. *Sponsor of Event:* America's Carriers Telecommunication Association—ACTA.
5. *Sponsor Address:* Attn: Jennifer Durst-Jarrell, 240 Spring Wind Way, Casselberry, FL 32707.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/12/94.
9. *Travel Dates:* 09/12–13/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $416.00 | ..... |
| 2. Hotel Room | ..... | $110.00 |
| 3. Meals | 42.50 | ..... |
| 4. Parking, Mileage & Taxi | 57.00 | ..... |
| | 515.50 | 110.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Dan D. Abeyta.
*Government position:* Attorney, Common Carrier Bureau.
3. *Event:* International Wireless Communications Expo.
4. *Sponsor of Event:* ARGUS Trade Shows.
5. *Sponsor Address:* 6151 Power Ferry Road, N.W., Suite 300, Atlanta, GA 30339.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/13–15/94.
9. *Travel Dates:* 04/13–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $316.00 | ..... |
| 2. Hotel Room | 170.64 | ..... |
| 3. Meals | 95.40 | ..... |
| 4. Parking, Mileage & Taxi | 29.40 | ..... |
| 5. Telephone | 1.00 | ..... |
| | 612.04 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rosalind K. Allen.
*Government position:* Attorney, Private Radio Bureau.
3. *Event:* International Wireless Communications Expo.
4. *Sponsor of Event:* ARGUS Trade Shows.
5. *Sponsor Address:* 6151 Powers Ferry Road, N.W., Suite 300, Atlanta, GA 30339.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/13–15/94.
9. *Travel Dates:* 04/13–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $316.00 | ..... |
| 2. Hotel Room | 170.64 | ..... |
| 3. Meals | 87.00 | ..... |
| 4. Parking, Mileage & Taxi | 80.00 | ..... |
| 5. Telephone | 19.43 | ..... |
| | 673.07 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* W. Riley Hollingsworth.
*Government position:* Attorney, Private Radio Bureau.
3. *Event:* International Wireless Communications Expo.
4. *Sponsor of Event:* ARGUS Trade Shows.
5. *Sponsor Address:* 6151 Powers Ferry Road, N.W., Suite 300, Atlanta, GA 30339.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/13–15/94.
9. *Travel Dates:* 04/12–16/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $926.29 | ..... |
| 2. Hotel Room | 341.28 | ..... |
| 3. Meals | 180.50 | ..... |
| 4. Parking, Mileage & Taxi | 100.30 | ..... |
| 5. Telephone | 12.25 | ..... |
| | 1,560.62 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government position:* Chief, Field Operations Bureau.
3. *Event:* International Wireless Communications Expo.
4. *Sponsor of Event:* ARGUS Trade Shows.
5. *Sponsor Address:* 6151 Powers Ferry Road, N.W., Suite 300, Atlanta, GA 30339.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/13–15/94.
9. *Travel Dates:* 04/13–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $304.00 | ..... |
| 2. Hotel Room | 170.64 | ..... |
| 3. Meals | 104.50 | ..... |
| 4. Parking, Mileage & Taxi | 26.00 | ..... |
| 5. Telephone | 104.19 | ..... |
| | 709.33 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Ralph A. Haller.
*Government position:* Chief, Private Radio Bureau.
3. *Event:* International Wireless Communication Expo.
4. *Sponsor of Event:* ARGUS Business.
5. *Sponsor Address:* 214 Massachusetts Avenue N.E., Suite 360, Washington, D.C. 20002.

6. *Location of Event:* Tampa, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/19–20/94.
9. *Travel Dates:* 10/18–21/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $320,00 | ..... |
| 2. Hotel Room | ..... | $375.00 |
| 3. Meals | 105.00 | ..... |
| 4. Parking & Taxi | 53.00 | ..... |
| 5. Car Rental | 60.87 | ..... |
| | 538.87 | 375.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Stephen L. Markendorff.
*Government position:* Chief, Cellular Radio Branch, Common Carrier Bureau.
3. *Event:* International Wireless Communications Expo.
4. *Sponsor of Event:* ARGUS Business.
5. *Sponsor Address:* 214 Massachusetts Avenue N.E., Suite 360, Washington, D.C. 20002.
6. *Location of Event:* Tampa, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/19–20/94.
9. *Travel Dates:* 10/19–20/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | ..... |
| 2. Hotel Room | 57.00 | ..... |
| 3. Meals | 45.50 | ..... |
| 4. Telephone & Taxi | 37.80 | ..... |
| | 530.30 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* David M. Szypulski.
*Government position:* Electronics Engineer, Office of Engineering & Technology.
3. *Event:* EMF Regulation & Litigation Institute Conference.
4. *Sponsor of Event:* Business Development Associates—BDA.
5. *Sponsor Address:* Mike Ryan, 1200 G Street, N.W., Suite 700, Washington, D.C. 20005.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Presentation at Conference.
8. *Dates of Event:* 04/14–15/94.
9. *Travel Dates:* 04/13–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $460.00 | ..... |
| 2. Hotel Room | ..... | $396.00 |
| 3. Meals | ..... | ..... |
| 4. Parking, Mileage & Taxi | ..... | ..... |
| | 460.00 | 396.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Roderick K. Porter.
*Government position:* Deputy Chief, Mass Media Bureau.
3. *Event:* CBA Summer Convention.
4. *Sponsor of Event:* California Broadcasters Association—CBA.
5. *Sponsor Address:* 1127 11th Street, Suite 730, Sacramento, CA 95814.
6. *Location of Event: Monterey, California.*
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/16–18/94.
9. *Travel Dates:* 07/17–19/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $552.00 | ..... |
| 2. Hotel Room | 246.00 | ..... |
| 3. Meals | 140.25 | ..... |
| 4. Parking, Mileage & Taxi | 15.00 | ..... |
| 5. Telephone | 1.50 | ..... |
| | 954.75 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
*Government position:* Chief, Mass Media Bureau.
3. *Event:* CBA Summer Convention.
4. *Sponsor of Event:* California Broadcasters Association—CBA.
5. *Sponsor Address:* 1127 11th Street, Suite 730, Sacramento, CA 95814.
6. *Location of Event:* Monterey, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/16–18/94.
9. *Travel Dates:* 07/17–19/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $552.00 | ..... |
| 2. Hotel Room | 246.00 | ..... |
| 3. Meals | 140.25 | ..... |
| 4. Parking, Mileage & Taxi | 55.00 | ..... |
| | 993.25 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Lenworth Smith.
*Government position:* Attorney, Cable Services Bureau.
3. *Event:* Great Lakes Cable Expo.
4. *Sponsor of Event:* Continental Cablevision of Michigan—CCM.
5. *Sponsor Address:* 21900 Melrose Avenue, Suite 6, Southfield, MI 48075.
6. *Location of Event:* Indianapolis, Indiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 09/19–21/94.
9. *Travel Dates:* 09/20/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $404.00 | ..... |
| 2. Hotel Room | .00 | ..... |
| 3. Meals | 25.50 | ..... |
| 4. Parking, Mileage & Taxi | 38.00 | ..... |
| | 467.50 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Linda B. Dubroof.
*Government position:* Attorney, Common Carrier Bureau.
3. *Event:* CFCA Ninth Annual Meeting & Conference.
4. *Sponsor of Event:* Communications Fraud Control Association—CFCA.
5. *Sponsor Address:* 1990 M Street, NW., Washington, DC 20036.
6. *Location of Event:* Boston, Massachusetts.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/02/94.
9. *Travel Dates:* 06/02–03/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $208.00 | |
| 2. Hotel Room | 101.00 | |
| 3. Meals | .00 | |
| 4. Parking, Mileage & Taxi | .00 | |
| | 309.00 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John R. Hudak.

*Government position:* Electronics Engineer, Compliance and Information Bureau.

3. *Event:* China Telecommunication Modernization Program.

4. *Sponsor of Event:* China International Centre for Economic & Technical Exchanges—CICETE.

5. *Sponsor Address:* Attn: Cheng Dayan, Ministry of Foreign Trade & Economic Cooperation, The People's Republic of China, No. 18 Bei San Huan Zhong Lu, Beijing, China, Post Code: 100011.

6. *Location of Event:* Beijing, China.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/14–30/94.

9. *Travel Dates:* 10/13–30/94

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $1,970.95 | |
| 2. Hotel Room | 1,639.36 | |
| 3. Meals | 1,349.00 | |
| 4. Parking, Mileage & Taxi | 121.03 | |
| | 5,080.34 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

*Government Position:* Chief, Enforcement Division, Mass Media Bureau.

3. *Event:* Colorado Broadcasters Convention.

4. *Sponsor of Event:* Colorado Broadcasters Association—CBA.

5. *Sponsor Address:* 1660 Lincoln Street, Suite 2202, Denver, CO 80264.

6. *Location of Event:* Grand Junction, Colorado.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/16–18/94.

9. *Travel Dates:* 06/16–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $528.00 | |
| 2. Hotel Room | 88.00 | |
| 3. Meals | 90.00 | |
| 4. Parking, Mileage & Taxi | | |
| | 706.00 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Linda L. Haller.

*Government Position:* Attorney, Common Carrier Bureau.

3. *Event:* Convergence '94 Conference.

4. *Sponsor of Event:* CommPerspectives.

5. *Sponsor Address:* Richard Purcell, Program & Editorial Director, 600 South Cherry Street, Suite 400, Denver, CO 80222.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/18–19/94.

9. *Travel Dates:* 04/17–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $341.00 | |
| 2. Hotel Room | 158.20 | |
| 3. Meals | .00 | |
| 4. Parking, Mileage & Taxi | .00 | |
| | 499.20 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Bruce A. Franca.

*Government Position:* Deputy Chief Engineer, Office of Engineering & Technology.

3. *Event:* 1994 Summer International, Consumer Electronics Show.

4. *Sponsor of Event:* Electronic Industries Association—EIA.

5. *Sponsor Address:* 2001 Pennsylvania Avenue, NW., Washington, DC 20006.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/23–25/94.

9. *Travel Dates:* 06/23–24/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | $309.00 |
| 2. Hotel Room | | 160.86 |
| 3. Meals | | 66.50 |
| 4. Parking, Mileage & Taxi | $24.00 | |
| | 24.00 | 536.36 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Leslie A. Wall.

*Government position:* Electronics Engineer, Office Engineering & Technology.

3. *Event:* 1994 International Symposium on Electromagnetic Compatibility.

4. *Sponsor of Event:* 94 EMC Symposium Committee.

5. *Sponsor Address:* c/o Mr. M. Okamura, JQA, 21–25 Kinuta, 1-chome, Setagaya-ku, Tokyo 157, Japan.

6. *Location of Event:* Tokyo, Japan.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/16–20/94.

9. *Travel Dates:* 05/14–27/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $956.95 | |
| 2. Hotel Room | | $3,370.00 |
| 3. Meals | 299.75 | 2,021.00 |
| 4. Parking, Mileage & Taxi | 30.00 | |
| | 1,286.70 | 5,391.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roderick K. Porter.

*Government position:* Deputy Bureau Chief, Operations, Mass Media Bureau.

3. *Event:* FAB Annual Convention.

4. *Sponsor of Event:* Florida Association of Broadcasters—FAB.

5. *Sponsor Address:* 109 East College, Tallahassee, FL 32301.

6. *Location of Event:* Palm Beach, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/22–26/94.

9. *Travel Dates:* 06/22–24/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $284.00 | |
| 2. Hotel Room | .00 | |
| 3. Meals | .00 | |
| 4. Parking, Mileage & Taxi | .00 | |
| | 284.00 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

*Government position:* Commissioner.

3. *Event:* FAB Annual Convention.

4. *Sponsor of Event:* Florida Association of Broadcasters—FAB.

5. *Sponsor Address:* 109 East College, Tallahassee, FL 32301.

6. *Location of Event:* Palm Beach, Florida.

7. *Employee's Role:* Attendance & Participation.

8. *Dates of Event:* 06/22–26/94.

9. *Travel Dates:* 06/22–26/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $326.00 | |
| 2. Hotel Room | 328.00 | |
| 3. Meals | 230.00 | |
| 4. Parking, Mileage & Taxi | 41.00 | |
| 5. Telephone | 111.90 | |
| | 1,036.90 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Karen Brinkman.

*Government position:* Special Assistant to Chairman Reed E. Hundt.

3. *Event:* FCBA 1994 Annual Seminar.

4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.

5. *Sponsor Address:* 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.

6. *Location of Event:* Farmington, Pennsylvania.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 05/13–15/94.

9. *Travel Dates:* 05/13–15/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $75.00 | |
| 2. Hotel Room | | $185.50 |
| 3. Meals | | 40.00 |
| 4. Parking, Mileage & Taxi | | |
| | 75.00 | 225.50 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Andrew C. Barrett.

*Government position:* Commissioner.

3. *Event:* World Telecommunications Conference.

4. *Sponsor of Event:* Financial Times.

5. *Sponsor Address:* 102–108 Clerkenwell Road, London EC1M 55A.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/3–7/94.

9. *Travel Dates:* 12/02–07/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | $1,252.55 |
| 2. Hotel Room | | |
| 3. Meals | | 170.15 |
| 4. Taxi & Telephone | | 164.98 |
| | | 1,587.68 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Edythe S. Wise.

*Government position:* Attorney, Mass Media Bureau.

3. *Event:* IBA Summer Convention.

4. *Sponsor of Event:* Iowa Boadcasters Association—IBA.

5. *Sponsor Address:* P.O. Box 71186, Des Moines, IA 50325.

6. *Location of Event:* West Des Moines, Iowa.

7. *Employee's Role:* Speaker/Panelist.

8. *Dates of Event:* 06/15–17/94

9. *Travel Dates:* 06/15–17/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $226.00 | |
| 2. Hotel Room | 110.00 | |
| 3. Meals | 67.50 | |
| 4. Parking, Mileage & Taxi | 30.75 | |
| | 434.25 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth M. Ackerman.

*Government position:* Chief, Accounting Systems Branch, Cable Services Bureau.

3. *Event:* Utilities Conference.

4. *Sponsor of Event:* Indiana CPA Society—ICPAS.

5. *Sponsor Address:* 8250 Woodfield Crossing Blvd., Suite 305, P.O. Box 40069, Indianapolis, IN 46240–0069.

6. *Location of Event:* Indianapolis, Indiana.

7. *Employee's Role:* Speaker.

8. *Date of Event:* 10/27/94.

9. *Travel Dates:* 10/26–27/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $284.00 | |
| 2. Hotel Room | 71.00 | |
| 3. Meals | 42.50 | |
| 4. Mileage, Parking & Telephone | 42.00 | |
| | 439.50 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

*Government position:* Chief, Office of Plans & Policy.

3. *Event:* IIC Telecom Forum.

4. *Sponsor of Event:* International Institute of Communications—IIC;

5. *Sponsor Address:* Tavistock House South, Tavistock Square, London WC1H 9 LF.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/23–24/95.

9. *Travel Dates:* 01/23–25/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $150.00 |
| 2. Hotel Room | ..... | 306.00 |
| 3. Meals | ..... | ..... |
| 4. Parking, Mileage & Taxi. | | |
| | ..... | 456.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Byron F. Marchant.

*Government position:* Senior Legal Advisor to Commissioner Andrew C. Barrett.

3. *Event:* Telecommunications Conference.

4. *Sponsor of Event:* IIR—Institute for International Research.

5. *Sponsor Address:* 60 Bloor Street West, Suite 1101, Toronto, M4W 3B8

6. *Location of Event:* Montreal, Canada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/30–31/94.

9. *Travel Dates:* 03/30–31/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $391.75 | ..... |
| 2. Hotel Room | 77.48 | ..... |
| 3. Meals | 91.50 | ..... |
| 4. Ground Transportation | 52.75 | ..... |
| 5. Telephone | .76 | ..... |
| | 614.24 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Andrew C. Barrett.

*Government position:* Commissioner.

3. *Event:* Telecommunications Conference.

4. *Sponsor of Event:* IIR - Institute for International Research.

5. *Sponsor Address:* 60 Bloor Street West, Suite 1101, Toronto, M4W 3B8.

6. *Location of Event:* Toronto, Canada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/28–29/94.

9. *Travel Dates:* 03/26–28/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $225.45 | ..... |
| 2. Hotel Room | 138.26 | ..... |
| 3. Meals | 167.50 | ..... |
| 4. Ground Transportation | 45.00 | ..... |
| 5. Telephone | 2.96 | ..... |
| | 579.17 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

*Government position:* Chief, Office of Plans & Policy.

3. *Event:* Global Telecoms '94 Conference.

4. *Sponsor of Event:* IIR Limited.

5. *Sponsor Address:* Attn: Bridget D. Fitzgerald, Conference Pro, IT Division, IIR Limited, Glenn House, 200/208 Tottenham Court Road, London, WIP 9LA.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/12/94.

9. *Travel Dates:* 09/09–13/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $740.95 |
| 2. Hotel Room | ..... | 292.50 |
| 3. Meals | $57.81 | 172.00 |
| 4. Parking, Mileage & Taxi | 9.75 | ..... |
| | 67.56 | 1205.45 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kathleen B. Levitz.

*Government Position:* Deputy Bureau Chief, Policy, Common Carrier Bureau.

3. *Event:* ITA Annaul Convention

4. *Sponsor of Event:* Illinois Telephone Association—ITA.

5. *Sponsor Address:* P.O. Box 730, 300 East Monroe Street, Springfield, IL 62705.

6. *Location of Event:* Osage Beach, Missouri.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/12–14/94.

9. *Travel Dates:* 06/12–13/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $484.0 | ..... |
| 2. Hotel Room | ..... | $112.00 |
| 3. Meals | 45.00 | ..... |
| 4. Parking, Mileage & Taxi | 25.00 | ..... |
| 5. Car Rental & Gas | 54.32 | ..... |
| | 608.32 | 112.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James M. Roop.

*Government Position:* Electronics Engineer, Compliance & Information Bureau.

3. *Event:* Spectrum Administration Course.

4. *Sponsor of Event:* Instituto Mexicano de Comunicaciones—IMC.

5. *Sponsor Address:* Av. de las Telecomunicaciones, S/N Col Leyes de Reforma, Deleg. Iztapalapa C.P. 09310, Mexico, D.F.

6. *Location of Event:* Mexico City, Mexico.

7. *Employee's Role:* Instructor.

8. *Dates of Event:* 10/07–11/94.

9. *Travel Dates:* 10/05–12/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $696.45 | ..... |
| 2. Hotel Room | 327.17 | $75.00 |
| 3. Meals | 483.00 | ..... |
| 4. Parking, Mileage & Taxi | 52.31 | ..... |
| | 1,558.93 | 75.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Ruth Milkman.

*Government Position:* Senior Legal Advisor to Chairman Reed E. Hundt.

3. *Event:* 98th Annual Fall, Convention.

4. *Sponsor of Event:* Iowa Telephone, Association—ITA.

5. *Sponsor Address:* 1601 22nd Street, Suite 209, West Des Moines, IA 50265.

6. *Location of Event:* Des Moines, Iowa.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/31–11/02/94.

9. *Travel Dates:* 10/30–11/01/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $256.00 | ..... |
| 2. Hotel Room | ..... | ..... |
| 3. Meals | 45.00 | ..... |
| 4. Taxi & Telephone | 20.35 | ..... |
| | 321.35 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Ralph A. Haller.
*Government Position:* Chief, Private Radio Bureau.
3. *Event:* ITA's 1994 Annual Conference.
4. *Sponsor of Event:* Industrial Telecommunications Association Inc—ITA.
5. *Sponsor Address:* 110 North Glebe Road, Suite 500, Arlington, VA 22201–5720.
6. *Location of Event:* Williamsburg, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/03–05/94.
9. *Travel Dates:* 11/02–03/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $88.00 | ..... |
| 2. Hotel Room | 49.00 | ..... |
| 3. Meals | 51.00 | ..... |
| 4. Taxi & Telephone | ..... | ..... |
| | 188.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government Position:* Chief, Office of Engineering & Technology.
3. *Event:* ITA's 1994 Annual Conference.
4. *Sponsor of Event:* Industrial Telecommunications Association Inc—ITA.
5. *Sponsor Address:* 110 North Glebe Road, Suite 500, Arlington, VA 22201–5720.
6. *Location of Event:* Williamsburg, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/03–05/94.
9. *Travel Dates:* 11/03–05/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $77.50 | ..... |
| 2. Hotel Room | ..... | $59.00 |
| 3. Meals | 42.50 | ..... |
| 4. Taxi & Telephone | 1.50 | ..... |
| | 121.50 | 59.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Thomas P. Stanley.
*Government position:* Chief Engineer, Office Plans & Policy.
3. *Event:* IA's 1994 Annual Conference.
4. *Sponsor of Event:* Industrial Telecommunications Association Inc—ITA.
5. *Sponsor Address:* 110 North Glebe Road, Suite 500, Arlington, VA 22201–5720.
6. *Location of Event:* Williamsburg, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/03–05/94.
9. *Travel Dates:* 11/03–04/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $80.50 | ..... |
| 2. Hotel Room | 49.00 | ..... |
| 3. Meals | 17.00 | ..... |
| 4. Taxi & Telephone | ..... | |
| | 146.50 | ..... |

(b) *Non-Fed Source: Same as No. 4.*

1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert H. Ratcliffe.
*Government position:* Attorney, Mass Media Bureau.
3. *Event:* MAB Annual Convention.
4. *Sponsor of Event:* Maine Association of Broadcasters—MAB.
5. *Sponsor Address:* P.O. Box P, 128 State Street, Suite 301, Augusta, ME 04332–0631.
6. *Location of Event:* Bar Harbor, Maine.
7. *Employee's Role:* Speaker.
8. *Date of Event:* 09/09–10/94.
9. *Travel Dates:* 09/09–11/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $405.00 | ..... |
| 2. Hotel Room | ..... | 196.88 |
| 3. Meals | 48.31 | ..... |
| 4. Parking, Mileage & Taxi | 20.50 | ..... |
| 5. Car Rental | 80.03 | ..... |
| | 553.84 | 196.88 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* James H. Quello.
*Government position:* Commissioner.
3. *Event:* MAB's Annual Convention.
4. *Sponsor of Event:* Michigan Association of Broadcasters.
5. *Sponsor Address:* 619 North Washington Avenue, Lansing, MI 48906.
6. *Location of Event:* Harbor Springs, Michigan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/19–21/94.
9. *Travel Dates:* 08/15–24/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $485.23 | ..... |
| 2. Hotel Room | ..... | $437.40 |
| 3. Meals | 126.00 | ..... |
| 4. Parking, Mileage & Taxi | 59.98 | ..... |
| | 671.21 | 437.40 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Thomas C. Spavins.
*Government position:* Attorney, Office General Counsel
3. *Event:* Conference on telecommunications Competition & Choice.
4. *Sponsor of Event:* Ministry of Energy Telecommunications & Post and the Regulatory Department, Jabatan Telekom, Malaysia.
5. *Sponsor Address:* Wisma Damansara, Jalan Semantan, 50668 Kuala Lumpur, Malaysia.
6. *Location of Event:* Kuala Lumpur, Malaysia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/19/94.
9. *Travel Dates:* 05/16–21/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $2,865.00 |
| 2. Hotel Room | ..... | 375.00 |
| 3. Meals | ..... | 270.00 |
| 4. Parking, Mileage & Taxi | ..... | 75.00 |
| | ..... | 3,585.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.
*Government Position:* Commissioner.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker/Panelist.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/11–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $196.00 | ..... |
| 2. Hotel Room | 202.92 | ..... |
| 3. Meals | 114.00 | ..... |
| 4. Parking, Mileage & Taxi | 22.00 | ..... |
| | 534.92 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Larry D. Eads.
*Government Position:* Chief, Audio Services Division, Mass Media Bureau.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/12–16/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | 304.38 | ..... |
| 3. Meals | 171.00 | ..... |
| 4. Parking, Mileage & Taxi | 85.00 | ..... |
| 5. Telephone & Copying | 27.02 | ..... |
| | 979.40 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Reed E. Hundt.
*Government Position:* Chairman.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/10–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $237.00 | ..... |
| 2. Hotel Room | 202.92 | ..... |
| 3. Meals | 95.00 | ..... |
| 4. Telephone & Faxes | 84.88 | ..... |
| | 619.80 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.
*Government Position:* General Counsel.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker/Panelist.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/11–16/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | ..... | ..... |
| 3. Meals | ..... | ..... |
| 4. Parking, Mileage & Taxi | 51.00 | ..... |
| | 443.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Jane Mago.
*Government position:* Legal Advisor to Commissioner Rachelle B. Chong.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/11–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |
| 2. Hotel Room | 202.92 | ..... |
| 3. Meals | 114.00 | ..... |
| 4. Parking, Mileage & Taxi | 22.00 | ..... |
| | 730.92 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.
*Government position:* Commissioner.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker/Panelist.

8. *Dates of Event:* 10/12–15/94.

9. *Travel Dates:* 10/12–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $196.00 | ..... |
| 2. Hotel Room | 202.92 | ..... |
| 3. Meals | 114.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 4. Telephone ..... | 14.00 | ..... |
| | 526.92 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Maureen O'Connell.
*Government position:* Legal Advisor to Commissioner James H. Quello.
3. *Event:* NAB Radio Show.
4. *Sponsor of Event:* National Association of Broadcasters—NAB.
5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036–2891.
6. *Location of Event:* Los Angeles, California.
7. *Employee's Role:* Speaker/Panelist.
8. *Dates of Event:* 10/12–15/94.
9. *Travel Dates:* 10/13–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $392.00 | ..... |
| 2. Hotel Room ..... | 101.46 | ..... |
| 3. Meals ..... | 85.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 54.50 | ..... |
| 5. Telephone ..... | .75 | |
| | 634.21 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Roderick K. Porter.
*Government position:* Deputy Chief, Mass Media Bureau.
3. *Event:* NAB Radio Show.
4. *Sponsor of Event:* National Association of Broadcasters—NAB.
5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036–2891.
6. *Location of Event:* Los Angeles, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/12–15/94.
9. *Travel Dates:* 10/12–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $392.00 | ..... |
| 2. Hotel Room ..... | 304.38 | ..... |
| 3. Meals ..... | 142.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 87.50 | ..... |
| 5. Telephone ..... | 1.78 | ..... |
| | 928.16 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Lisa B. Smith.
*Government position:* Legal Advisor to Commissioner Andrew C. Barrett.
3. *Event:* NAB Radio Show.
4. *Sponsor of Event:* National Association of Broadcasters—NAB.
5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.
5. *Location of Event:* Los Angeles, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/12–15/94.
9. *Travel Dates:* 10/13–16/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $392.00 | ..... |
| 2. Hotel Room ..... | 202.92 | ..... |
| 3. Meals ..... | 104.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 185.00 | ..... |
| Telephone ..... | 23.03 | ..... |
| | 907.45 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Merrill S. Spiegel.
*Government position:* Legal Advisor to Chairman Reed Hundt.
3. *Event:* NAB Radio Show.
4. *Sponsor of Event:* National Association of Broadcasters—NAB.
5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.
6. *Location of Event:* Los Angeles, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/12–15/94.
9. *Travel Dates:* 10/12–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $357.00 | ..... |
| 2. Hotel Room ..... | 202.92 | ..... |
| 3. Meals ..... | 114.00 | ..... |
| 4. Parking, Mileage & Taxi ..... | 84.00 | ..... |
| | 757.92 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
*Government position:* Chief, Mass Media Bureau.
3. *Event:* NAB Radio Show.
4. *Sponsor of Event:* National Association of Broadcasters—NAB.
5. *Sponsor Address:* 1771 N Street, NW., Washington, DC 20036–2891.
6. *Location of Event:* Los Angeles, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/12–15/94.
9. *Travel Dates:* 10/12–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $392.00 | ..... |
| 2. Hotel Room ..... | 304.38 | ..... |
| 3. Meals ..... | 142.50 | ..... |
| 4. Parking, Mileage & Taxi ..... | 46.00 | ..... |
| | 884.88 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Brian F. Fontes.
*Government position:* Senior Advisor, to Commission James H. Quello.
3. *Event:* NABER's Mobile Communications Conference.
4. *Sponosr of Event:* National Association of Business & Educational Radio—NABER.
5. *Sponsor Address:* 1501 Duke Street, Alexandria, VA 22314.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/11–14/94.
9. *Travel Dates:* 05/11–15/94.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation ..... | $460.00 | ..... |
| 2. Hotel Room ..... | ..... | ..... |
| 3. Meals ..... | 82.50 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 4. Parking, Mileage & Taxi | 24.00 | |
| | 566.50 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Ralph A. Haller.

*Government position:* Chief, Private Radio Bureau.

3. *Event:* NABER's Mobile Communications Conference.

4. *Sponsor of Event:* National Association of Business & Eductional Radio—NABER.

5. *Sponsor Address:* 1501 Duke Street, Alexandria, VA 22314.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/11–14/94.

9. *Travel Dates:* 05/13–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $416.00 | |
| 2. Hotel Room | | $143.19 |
| 3. Meals | 45.00 | |
| 4. Parking, Mileage & Taxi | 40.00 | |
| 5. Telephone | 2.25 | |
| | 503.25 | 143.19 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa L. Stover.

*Government position:* Work Unit Supervisor, Private Radio Bureau.

3. *Event:* NABER's Mobile Communications Conference.

4. *Sponsor of Event:* National Association of Business & Educational Radio—NABER.

5. *Sponsor Address:* 1501 Duke Street, Alexandria, VA 22314.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/11–14/94.

9. *Travel Dates:* 05/12–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $460.00 | |
| 2. Hotel Room | | $286.38 |
| 3. Meals | 45.00 | |
| 4. Parking, Mileage & Taxi | 76.00 | |
| 5. Telephone | 6.90 | |
| | 587.90 | 286.38 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mary E. Burns.

*Government position:* Chief, Consumer Protection Division, Cable Services Bureau.

3. *Event:* 1994 NATOA Annual Conference.

4. *Sponsor of Event:* National Association of Telecommunications Officers & Advisors—NATOA.

5. *Sponsor Address:* 1301 Pennsylvania Avenue, NW., Washington, DC 20004.

6. *Location of Event:* Reno-Sparks, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/18–21/94.

9. *Travel Dates:* 09/17–21/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $588.00 | |
| 2. Hotel Room | | $275.40 |
| 3. Meals | 90.00 | |
| 4. Parking, Mileage & Taxi | 19.70 | |
| | 697.70 | 275.40 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa M. Higginbotham.

*Government position:* Attorney, Cable Services Bureau.

3. *Event:* 1994 NATOA Annual Conference.

4. *Sponsor of Event:* National Association of Telecommunications Officers & Advisors—NATOA.

5. *Sponsor Address:* 1301 Pennsylvania Avenue, NW., Washington, DC 20004.

6. *Location of Event:* Reno-Sparks, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/18–21/94.

9. *Travel Dates:* 09/18–19/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $617.00 | |
| 2. Hotel Room | | $188.60 |
| 3. Meals | 60.00 | |
| 4. Parking, Mileage & Taxi | 40.00 | |
| | 717.00 | 188.60 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John Spencer.

*Government position:* Attorney, Cable Services Bureau.

3. *Event:* 1994 NATOA Annual Conference.

4. *Sponsor of Event:* National Association of Telecommunications Officers & Advisors—NATOA.

5. *Sponsor Address:* 1301 Pennsylvania Avenue, NW., Washington, DC 20004.

6. *Location of Event:* Reno-Sparks, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/18–21/94.

9. *Travel Dates:* 09/17–23/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $404.00 | |
| 2. Hotel Room | | $275.40 |
| 3. Meals | 105.00 | |
| 4. Parking, Mileage & Taxi | 15.56 | |
| | 524.56 | 275.40 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Blair S. Levin.

*Government position:* Chef of Staff to the Chairman.

3. *Event:* NCTA 43rd Annual Convention & Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* 1724 Massachusetts Avenue, NW., Washington, DC 20036.

6. *Location of Event:* New Orleans, Louisiana.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 05/22–25/94.

9. *Travel Dates:* 05/23–25/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $416.00 | |
| 2. Hotel Room | 132.00 | |
| 3. Meals | 68.00 | |
| 4. Parking, Mileage & Taxi | 44.95 | |
| | 660.95 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Diane L. Hofbauer.

*Government position:* Attorney Advisor, Cable Services Bureau.

3. *Event:* NCTVC's 10th Annual Members Meeting.

4. *Sponsor of Event:* National Cable Television Cooperative Inc.—NCTVC.

5. *Sponsor Address:* 14809 West 95th Street, Lenexa, KS 66215.

6. *Location of Event:* Squaw Valley, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/27–29/94.

9. *Travel Dates:* 06/28–30/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $267.50 | |
| 2. Hotel Room | | $300.00 |
| 3. Meals | 95.00 | |
| 4. Parking, Mileage & Taxi | 130.00 | |
| 5. Telephone & Baggage | 54.27 | |
| | 546.77 | 300.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William H. Johnson.

*Government position:* Deputy Chief for Policy, Cable Services Bureau.

3. *Event:* NECTA Convention & Exhibition.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/09–13/94.

9. *Travel Dates:* 07/09–12/94

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $462.00 | |
| 2. Hotel Room | | $273.00 |
| 3. Meals | 133.00 | |
| 4. Parking, Mileage & Taxi | 17.50 | |
| 5. Telephone | 14.12 | |
| | 626.62 | 273.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Maureen O'Connell.

*Goverment Position:* Attorney Advisor, to Commissioner James H. Quello.

3. *Event:* NECTA Annual Convention & Exhibition.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/09–13/94.

9. *Travel Dates:* 07/11–12/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $462.00 | |
| 2. Hotel Room | 184.80 | |
| 3. Meals | 27.53 | |
| 4. Parking, Mileage & Taxi | 16.90 | |
| 5. Telephone | 32.03 | |
| | 723.26 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roderick K. Porter.

*Goverment Position:* Deputy Bureau Chief, Operations, Mass Media Bureau.

3. *Event:* NJBA Annual Convention.

4. *Sponsor of Event:* New Jersey Broadcasters Association—NJBA.

5. *Sponsor Address:* 7 Centre Drive, Suite One, Jamesburg, NJ 08831.

6. *Location of Event:* Atlantic City, New Jersey.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/06–08/94.

9. *Travel Dates:* 06/06–08/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $54.00 | |
| 2. Hotel Room | 187.68 | |
| 3. Meals | 85.50 | |
| 4. Parking, Mileage & Taxi | 11.40 | |
| 5. Telephone | 4.00 | |
| | 342.58 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Goverment Position:* Chief, Mass Media Bureau.

3. *Event:* NJBA Annual Convention.

4. *Sponsor of Event:* New Jersey Broadcasters Association—NJBA.

5. *Sponsor Address:* 7 Centre Drive, Suite One, Jamesburg, NJ 08831.

6. *Location of Event:* Atlantic City, New Jersey.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/06–08/94.

9. *Travel Dates:* 06/06–08/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $54.00 | |
| 2. Hotel Room | 187.68 | |
| 3. Meals | 85.50 | |
| 4. Parking, Mileage & Taxi | 14.00 | |
| | 341.18 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kathleen M.H. Wallman.

*Goverment Position:* Deputy Bureau Chief, Cable Services Bureau.

3. *Event:* Rocky Mountain Cable Television Expo.

4. *Sponsor of Event:* New Mexico Cable Television Association—NMCTA.

5. *Sponsor Address:* P.O. Box 2264, Sante Fe, NM 87504.

6. *Location of Event:* Keystone, Colorado.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/17–20/94.

9. *Travel Dates:* 07/16–20/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $368.00 | ..... |
| 2. Hotel Room | 427.47 | $142.49 |
| 3. Meals | 171.00 | ..... |
| 4. Telephone | 106.79 | ..... |
| | 1,073.26 | 142.49 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard L. Swanson.

*Government position:* Chief of International Liasion, Private Radio Bureau.

3. *Event:* NMEA 1994 Annual Convention.

4. *Sponsor of Event:* National Marine Electronics Assoication—NMEA.

5. *Sponsor Address:* P.O. Box 3435, New Bern, NC 28564–3435.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Participate in Meetings.

8. *Dates of Event:* 10/18–22/94.

9. *Travel Dates:* 10/20–21/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $408.00 | ..... |
| 2. Hotel Room | ..... | $129.00 |
| 3. Meals | 60.00 | ..... |
| 4. Bus, Parking & Mileage | 76.05 | ..... |
| | $544.05 | $129.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

*Government Position:* Chief, Enforcement Division, Mass Media Bureau.

3. *Event:* OAB Annual Convention.

4. *Sponsor of Event:* Ohio Assoication of Broadcasters—OAB.

5. *Sponsor Address:* 88 East Broad Street, Suite 1780, Columbus, Ohio 43215.

6. *Location of Event:* Columbus, Ohio.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/26–28/94.

9. *Travel Dates:* 10/25–26/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $304.00 | ..... |
| 2. Hotel Room | 69.00 | ..... |
| 3. Meals | 42.50 | ..... |
| 4. Taxi & Mileage | 25.00 | ..... |
| | $440.50 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.

*Government position:* Commissioner.

3. *Event:* Unity '94 Convention.

4. *Sponsor of Event:* Washington Post and Unity '94.

5. *Sponsor Address:* 1150 15th Street, NW., Washington, DC 20071.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/30/94.

9. *Travel Dates:* 07/29–30/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $341.00 | ..... |
| 2. Hotel Room | 113.00 | ..... |
| 3. Meals | 57.00 | ..... |
| 4. Parking, Mileage & Taxi | 14.00 | ..... |
| | $525.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Stephen L. Markendorff.

*Government position:* Electronics Engineer, Common Carrier Bureau.

3. *Event:* Second Annual Cellular Conference.

4. *Sponsor of Event:* Rural Cellular Association.

5. *Sponsor Address:* 2120 L Street, NW., Suite 810, Washington, DC 20037.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/26–27/94.

9. *Travel Dates:* 04/27–28/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $290.00 | ..... |
| 2. Hotel Room | 46.96 | ..... |
| 3. Meals | 66.50 | ..... |
| 4. Parking, Mileage & Taxi | 54.50 | ..... |
| 5. Telephone | 3.00 | |
| | $460.96 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee: Government position:* Michael L. Katz, Chief Economist, Office of Plans & Policy.

3. *Event:* Conference on Telecoms and Information.

4. *Sponsor of Event:* Strategy Assistance Services.

5. *Sponsor Address:* 64 Baskin Road, Lexington, MA 02173.

6. *Location of Event:* Monterrey, Mexico.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/28–30/94.

9. *Travel Dates:* 09/27–29/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $559.00 |
| 2. Hotel Room | ..... | 240.00 |
| 3. Meals | $34.00 | 158.00 |
| 4. Parking, Mileage & Taxi | 9.00 | ..... |
| | 43.00 | 957.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee: Government position:* James L. Ball. Attorney Advisor, Office of International Communications.

3. *Event:* 4th Satel Conseil Symposium.

4. *Sponsor of Event:* Satel Conseil.

5. *Sponsor Address:* 5, Rue Louis Lejeune, 92128 Montrouge Cedex, France.

6. *Location of Event:* Versailles, France.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/06–08/94.

9. *Travel Dates:* 06/04–09/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $660.05 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | ..... | $625.00 |
| 3. Meals | 150.50 | 120.00 |
| 4. Parking, Mileage & Taxi | 96.52 | ..... |
| 5. Telephone | 1.96 | ..... |
| | 909.03 | 745.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee: Government position:* Jonathan D. Levy. Economist, Office of Plans Policy.

3. *Event:* Orlando Trade Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Associate—SBCA.

5. *Sponsor Address:* 225 Reinekers Lane, Alexandria, Va 22314.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/04/94.

9. *Travel Dates:* 08/03–06/94

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $438.00 | ..... |
| 2. Hotel Room | ..... | $171.00 |
| 3. Meals | 110.50 | ..... |
| 4. Parking, Mileage & Taxi | 115.75 | ..... |
| | 664.25 | 171.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. **EMPLOYEE: GOVERNMENT POSITION:** James W. Olson. Chief, Competition Division Cable Services Bureau.

3. *Event:* '94 Satellite Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 08/04/94.

9. *Travel Dates:* 08/03–94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $377.27 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | ..... | $126.54 |
| 3. Meals | 64.74 | ..... |
| 4. Parking, Mileage & Taxi | 70.00 | ..... |
| Telephone | 38.53 | ..... |
| | 550.54 | 126.54 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Merrill Spiegel.
*Government position:* Attorney Office of the Chairman.

3. *Event:* Orlando Trade Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/06/94.

9. *Travel Dates:* 08/05–06/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $416.00 | ..... |
| 2. Hotel Room | ..... | 57.00 |
| 3. Meals | 52.50 | ..... |
| 4. Parking, Mileage & Taxi | 85.00 | ..... |
| | 553.50 | 57.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.
*Government position:* Chief, Office of Engineering & Technology.

3. *Event:* SBE's National Convention.

4. *Sponsor of Event:* Society of Broadcast Engineers, Inc.—SBE.

5. *Sponsor Address:* 8445 Keystone Crossing, Suite 140, Indianapolis, IN 46240.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/13/94.

9. *Travel Dates:* 10/13–17/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | ..... | 180.12 |
| 3. Meals | 123.50 | ..... |
| 4. Parking, Mileage & Taxi | 49.60 | ..... |
| 5. Telephone | 31.05 | ..... |
| | $596.15 | $180.12 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meredith J. Jones.
*Government position:* Chief, Cable Services Bureau.

3. *Event:* Eastern Cable Show.

4. *Sponsor of Event:* Southern Cable Television Association—SCTA.

5. *Sponsor Address:* 6175 Barfield Road, Suite 220, Atlanta, Georgia 30328.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 08/03/94.

9. *Travel Dates:* 08/02–03/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $331.00 | ..... |
| 2. Hotel Room | 77.29 | ..... |
| 3. Meals | 24.82 | ..... |
| 4. Parking, Mileage & Taxi | 52.50 | ..... |
| 5. Telephone | 41.60 | ..... |
| | 527.21 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael L. Lance.
*Government position:* Electronics Engineer, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '94.

4. *Sponsor of Event:* Society of Cable Television Engineers—SCTE.

5. *Sponsor Address:* 669 Exton Commons, Exton, PA 19341.

6. *Location of Event:* St. Louis, Missouri.

7. *Employee's Role:* Participate in Workshop.

8. *Dates of Event:* 06/16–17/94.

9. *Travel Dates:* 06/13–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $484.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | 335.85 | |
| 3. Meals | 218.50 | |
| 4. Parking, Mileage & Taxi | 31.20 | |
| | 1069.55 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John M. Spencer.

*Government position:* Attorney, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '94.

4. *Sponsor of Event:* Society of Cable Television Engineers—SCTE.

5. *Sponsor Address:* 669 Exton Commons, Exton, PA 19341.

6. *Location of Event:* St. Louis, Missouri.

7. *Employee's Role:* Participate in Workshop.

8. *Dates of Event:* 06/16–17/94.

9. *Travel Dates:* 06/15–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $484.00 | |
| 2. Hotel Room | | 201.51 |
| 3. Meals | 133.00 | |
| 4. Parking, Mileage & Taxi | 28.60 | |
| | 645.60 | $201.51 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* R. Alan Stillwell.

*Government position:* Industry Economist, Office Engineering & Technology.

3. *Event:* Cable-Tec Expo '94.

4. *Sponsor of Event:* Society of Cable Television Engineers—SCTE.

5. *Sponsor Address:* 669 Exton Commons, Exton, PA 19341.

6. *Location of Event:* St. Louis, Missouri.

7. *Employee's Role:* Panel Discussion.

8. *Dates of Event:* 06/15–17/94.

9. *Travel Dates:* 06/13–16/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $484.00 | |
| 2. Hotel Room | | $201.51 |
| 3. Meals | 152.00 | |
| 4. Parking, Mileage & Taxi | 23.40 | |
| | 659.40 | 201.51 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John P. Wong.

*Government position:* Electronic Engineer, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '94.

4. *Sponsor of Event:* Society of Cable Television Engineers —SCTE.

5. *Sponsor Address:* 669 Exton Commons, Exton, PA 19341.

6. *Location of Event:* St. Louis, Missouri.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/15–17/94.

9. *Travel Dates:* 06/13–18/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $484.00 | |
| 2. Hotel Room | 335.85 | |
| 3. Meals | 218.50 | |
| 4. Parking, Mileage & Taxi | 75.00 | |
| | 1113.35 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael J. Marcus.

*Government position:* Assistant Bureau Chief, Technology Field Operations Bureau.

3. *Event:* Seminar on Spread Spectrum.

4. *Sponsor of Event:* Spread Spectrum Study Group.

5. *Sponsor Address:* Masao Nakagawa, Dept. of Elec. Eng., Keio University, 3–14–1 Hiyoshi Kohoku–ku, Yokohama, Japan.

6. *Location of Event:* Tokyo & Karuizawa, Japan.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/10–13/94.

9. *Travel Dates:* 04/08–16/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $953.95 | |
| 2. Hotel Room | 102.00 | |
| 3. Meals | 643.25 | |
| 4. Parking, Mileage & Taxi | 101.68 | |
| 5. Train | 91.65 | |
| | 1892.53 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Christopher J. Wright.

*Government Position:* Deputy General Counsel.

3. *Event:* Symposium on ''Violence in the Media.''

4. *Sponsor of Event:* Stanford Law School.

5. *Sponsor Address:* Crown Quadrangle, Stanford, CA 94305–8610.

6. *Location of Event:* Stanford, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/23/94.

9. *Travel Dates:* 04/23/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $643.00 | |
| 2. Hotel Room | | $126.00 |
| 3. Meals | 66.50 | |
| 4. Parking, Mileage & Taxi | 67.00 | |
| | 776.50 | 126.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.

*Government Position:* Commissioner.

3. *Event:* World Summit on TV & Children.

4. *Sponsor of Event:* Telstra.

5. *Sponsor Address:* 199 Grattan Street, Victoria, 3053, Australia.

6. *Location of Event:* Melbourne, Australia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/11–17/95.

9. *Travel Dates:* 03/09–17/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $4919.98 |
| 2. Hotel Room | ..... | 1255.20 |
| 3. Meals | ..... | ..... |
| 4. Taxi | ..... | ..... |
| | ..... | 6175.18 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Marian R. Gordon.

*Government Position:* Attorney, Common Carrier Bureau.

3. *Event:* Consultative Committee—Telecommunications Conference.

4. *Sponsor of Event:* Telecommunications Industry Association—TIA.

5. *Sponsor Address:* 2001 Pennsylvania Avenue, NW., Suite 900, Washington, DC 20005.

6. *Location of Event:* Ottawa, Canada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 6/27–30/94.

9. *Travel Dates:* 06/26–30/94

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $433.490 | ..... |
| 2. Hotel Room | 353.92 | ..... |
| 3. Meals | 233.75 | ..... |
| 4. Parking, Mileage & Taxi | 22.00 | ..... |
| 5. Telephone | 23.00 | ..... |
| | $1066.16 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael L. Katz.

*Government Position:* Chief Economist, Office of Plans & Policy.

3. *Event:* 1994 Annual Meeting of TTFG.

4. *Sponsor of Event:* Telecommunication Technology Forecasting Group—TTFG.

5. *Sponsor Address:* 1333 New Hampshire Avenue, NW., Suite 1070, Washington, DC 20036.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/23–24/94.

9. *Travel Dates:* 06/22–24/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $643.00 | ..... |
| 2. Hotel Room | 326.00 | ..... |
| 3. Meals | 95.00 | ..... |
| 4. Parking, Mileage & Taxi | 162.00 | ..... |
| | 1226.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kathleen B. Levitz.

*Government position:* Deputy Bureau Chief—Policy, Common Carrier Bureau.

3. *Event:* Panel on ''Universal Service—What Is It, What Should It Be?

4. *Sponsor of Event:* Texas Statewide Telephone Cooperative Inc.'s—TSTCI.

5. *Sponsor Address:* 2711 LBJ Freeway, Suite 560, Dallas, TX 75234–7321.

6. *Location of Event:* Lake Tahoe, Stateline, Nevada.

7. *Employee's Role:* Panelist.

8. *Date of Event:* 08/04/94.

9. *Travel Dates:* 08/03–05/94.

10. (a)

| Nature of benefit | (c) Type of amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $489.00 | ..... |
| 2. Hotel Room | 270.00 | ..... |
| 3. Meals | 114.00 | ..... |
| 4. Parking, Mileage & Taxi | 26.00 | ..... |
| 5. Telephone & Car Rental | 68.79 | ..... |
| | 967.79 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* W. Riley Hollingsworth.

*Government position:* Attorney, Private Radio Bureau.

3. *Event:* Cellular Mobile Telephone Network Conference.

4. *Sponsor of Event:* United States Cellular.

5. *Sponsor Address:* 292 Route 101, Bedford, NH 03110.

6. *Location of Event:* Manchester, New Hampshire.

7. *Employee's Role:* Speaker at Conference.

8. *Dates of Event:* 06/28–29/94.

9. *Travel Dates:* 06/27–29/94.

10. (a)

| Nature of benefit | (c) Type of amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $344.00 | ..... |
| 2. Hotel Room | ..... | $151.20 |
| 3. Meals | 45.00 | ..... |
| 4. Parking, Mileage & Taxi | 57.00 | ..... |
| | 446.00 | 151.20 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Linda B. Dubroof.

*Government position:* Attorney, Common Carrier Bureau.

3. *Event:* Symposium on Toll Fraud Issues.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, NW., Suite 600, Washington, DC 20005.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Date of Event:* 04/25/94.

9. *Travel Dates:* 04/24–25/94.

10. (a)

| Nature of benefit | (c) Type of amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $298.00 | ..... |
| 2. Hotel Room | 119.00 | ..... |
| 3. Meals | 57.00 | ..... |
| 4. Parking, Mileage & Taxi | 50.00 | ..... |
| | 524.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth M. Ackerman.

*Government position:* Chief, Accounting Systems Branch, Common Carrier Bureau.

3. *Event:* Capitol Recovery Seminar.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, NW., Suite 600, Washington, DC 20005.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/12–13/94.

9. *Travel Dates:* 09/10–14/94.

10. (a)

| Nature of benefit | (c) Type of amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $400.00 |
| 2. Hotel Room | ..... | 617.96 |
| 3. Meals | $81.50 | ..... |
| 4. Parking, Mileage & Taxi | 94.00 | ..... |
| 5. Telephone | 6.50 | ..... |
| | 182.00 | 1017.96 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Fatina K. Franklin.

*Government position:* Chief, Depreciation Rates Section, Common Carrier Bureau.

3. *Event:* Capital Recovery Seminar.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2136.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/12–13/94.

9. *Travel Dates:* 09/11–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $870.00 |
| 2. Hotel Room | ..... | 463.47 |
| 3. Meals | $127.50 | ..... |
| 4. Parking, Mileage & Taxi | 69.00 | ..... |
| | 196.50 | 1333.47 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth M. Ackerman.

*Government position:* Chief, Accounting Systems Branch, Common Carrier Bureau.

3. *Event:* Capitol Recovery Seminar.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2136.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/12–13/94.

9. *Travel Dates:* 09/10–14/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | ..... |
| 2. Hotel Room | ..... | ..... |
| 3. Meals | $80.00 | ..... |
| | $80.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth P. Moran.

*Government position:* Chief, Accounting & Audits Division, Common Carrier Bureau.

3. *Event:* Accounting Seminar.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2136.

6. *Location of Event:* Boone, North Carolina.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/06–07/94.

9. *Travel Dates:* 10/06–07/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $540.00 |
| 2. Hotel Room | ..... | 68.00 |
| 3. Meals | $45.50 | ..... |
| 4. Taxi, Mileage & Telephone | 34.00 | ..... |
| | 79.50 | 608.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert W. Spangler.

*Government position:* Deputy Chief, Enforcement Division, Common Carrier Bureau.

3. *Event:* Pay-Per-Call 800 Service Symposium.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2136.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/26/94.

9. *Travel Dates:* 09/26/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $162.00 | ..... |
| 2. Hotel Room | 103.99 | ..... |
| 3. Meals | 57.00 | ..... |
| 4. Parking, Mileage & Taxi | 15.00 | ..... |
| | 337.99 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Sharon M. Bertelsen.

*Government position:* Attorney, Mass Media Bureau.

3. *Event:* 1994 Wireless Cable, Association International Exposition & Convention.

4. *Sponsor of Event:* Wireless Cable Association International—WCAI.

5. *Sponsor Address:* 1155 Connecticut Avenue, NW., Suite 700, Washington, DC 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Participate Convention.

8. *Dates of Event:* 6/20–23/94.

9. *Travel Dates:* 6/21–26/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $303.00 | ..... |
| 2. Hotel Room | .00 | ..... |
| 3. Meals | 104.00 | ..... |
| 4. Parking, Mileage & Taxi | 54.50 | ..... |
| | 461.50 | ..... |

(c) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Diane L. Hofbauer.

*Government position:* Attorney, Cable Services Bureau.

3. *Event:* 1994 Wireless Cable Association International Exposition & Convention.

4. *Sponsor of Event:* Wireless Cable Association International—WCAI.

5. *Sponsor Address:* 1155 Connecticut Avenue, NW., Suite 700, Washington, DC 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 6/20–23/94.

9. *Travel Dates:* 6/20–23/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $267.50 | |
| 2. Hotel Room | 255.96 | |
| 3. Meals | 133.00 | |
| 4. Parking, Mileage & Taxi | 23.00 | |
| Telephone | 92.74 | |
| | 772.20 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James W. Olson.

*Government position:* Chief, Competition Division, Cable Service Bureau.

3. *Event:* 1994 Wireless Cable Association International Exposition & Convention.

4. *Sponsor of Event:* Wireless Cable Association International—WCAI.

5. *Sponsor Address:* 1155 Connecticut Avenue, NW., Suite 700, Washington, DC 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/20–23/94.

9. *Travel Dates:* 06/20–23/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | |
| 2. Hotel Room | $170.64 | |
| 3. Meals | 47.30 | |
| 4. Parking, Mileage & Taxi | 73.00 | |
| 5. Fax | 22.00 | |
| | 312.94 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Phillip M. Inglis.

*Government position:* Electronics Engineer, Office of Engineering & Technology.

3. *Event:* First Annual WINForm User PCS Workshop.

4. *Sponsor of Event:* Wireless Information Networks Forum—WINForm.

5. *Sponsor Address:* Attn: Nancy Buker, 1200 19th St. NW., Suite 300, Washington, DC 20036–2401.

6. *Location of Event:* Dallas, Texas.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/17–19/94.

9. *Travel Dates:* 10/17–19/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $446.00 | |
| 2. Hotel Room | 122.10 | |
| 3. Meals | 102.00 | |
| 4. Car Rental | 275.24 | |
| 5. Mileage & Telephone | 33.50 | |
| | 978.84 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Julius P. Knapp.

*Government position:* Chief, Authorization & Evaluation Division, Office of Engineering & Technology.

3. *Event:* First Annual WINFourm User PCS.

4. *Sponsor of Event:* Wireless Information Networks Forum—WINForum.

5. *Sponsor Address:* Attn: Nancy Buker, 1200 19th St. N.W., Suite 300, Washington, D.C. 20036–2401.

6. *Location of Event:* Dallas, Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/17–19/94.

9. *Travel Dates:* 10/17–18/94.

10. (a)

| Nature of Benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $446.00 | |
| 2. Hotel Room | 61.05 | |
| 3. Meals | 59.50 | |
| 4. Car Rental | 101.18 | |
| 5. Mileage & Parking | 22.00 | |
| | 689.73 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Byron F. Marchant.

*Government position:* Senior Legal Advisor to Commissioner Andrew C. Barret.

3. *Event:* Seminar on Personal Communications Services.

4. *Sponsor of Event:* Women Investors for Tourism, Education & Entertainment—WITEE.

5. *Sponsor Address:* Marilyn Miglin Institute, Attn: Dan Davis, 112 East Oak Street, Chicago, IL 60611.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/22/94.

9. *Travel Dates:* 07/22/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $298.00 | |
| 2. Hotel Room | | |
| 3. Meals | | |
| 4. Parking, Mileage & Taxi | | |
| | 298.00 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael L. Katz.

*Government position:* Chief Economist, Office Plans & Policy.

3. *Event:* The Americas, Telecommunications Congress.

4. *Sponsor of Event:* World Congress.

5. *Sponsor Address:* 1000 Winter Street, Suite 3600, Waltham, MA 02154.

6. *Location of Event:* Miami, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/05–06/94.

9. *Travel Dates:* 12/04–06/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | | 158.00 |
| 3. Meals | 68.00 | |
| 4. Taxi | 99.00 | |
| | 557.00 | 158.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roderick K. Porter.

*Government position:* Deputy Bureau Chief, Operations, Mass Media Bureau.

3. *Event:* WSAB 1994 Annual Conference.

4. *Sponsor of Event:* Washington State Association of Broadcaster—WSAB.

5. *Sponsor Address:* Olympia Trade Center, 924 Capitol Way South, Suite 104, Olympia, WA 98501.

6. *Location of Event:* Paco, Washington.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/03–05/94

9. *Travel Dates:* 06/03–05/94.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $620.00 | ..... |
| 2. Hotel Room | 92.00 | |
| 3. Meals | 93.50 | |
| 4. Parking, Mileage & Taxi | 38.00 | |
| 5. Fax | 27.16 | |
| | $870.66 | |

(b) *Non-Fed Source:* Same as No. 4.

Federal Communication Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95–12792 Filed 5–26–95; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL HOUSING FINANCE BOARD

**[No. 95–N–04]**

## Prices for Federal Home Loan Bank Services

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Notice of prices for Federal Home Loan Bank services.

**SUMMARY:** The Federal Housing Finance Board (Board) is publishing the prices charged by the Federal Home Loan Banks (Banks) for processing and settlement of items (negotiable order of withdrawal or NOW), and demand deposit accounting (DDA) and other services offered to member and other eligible institutions.

**EFFECTIVE DATE:** May 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Edward J. Reedy, Acting Associate Director, Regulatory Oversight Division, (202) 408–2959; or Edwin J. Avila, Financial Analyst, (202) 408–2871; Federal Housing Finance Board, 1777 F Street NW., Washington, D.C. 20006.

**SUPPLEMENTARY INFORMATION:** Section 11(e) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1431(e)) authorizes the Banks (1) to accept demand deposits from member institutions, (2) to be drawees of payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and other eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority. Section 11(e)(2)(B) of the Bank Act (12 U.S.C. 1431(e)(2)(B)) requires the Banks to make charges for services authorized in that section, which charges are to be determined and regulated by the Board.

Section 943.6(c) of the Board's regulations provides for the annual publication in the **Federal Register** of all prices for Bank services. The following fee schedules are for the five Banks which offer item processing services to their members and other qualified financial institutions. Most of the remaining Banks provide other Correspondent Services which may include securities safekeeping, disbursements, coin and currency, settlement, and electronic funds transfer, etc. However, these Banks do not provide services related to processing of items drawn against or deposited into third party accounts held by their members or other qualified financial institutions.

*District 1.—Federal Home Loan Bank of Boston (1995 NOW/DDA Services)*

(Services not provided)

*District 2.—Federal Home Loan Bank of New York (1995 NOW/DDA Services)*

(Does not provide item processing services for third party accounts)

*District 3.—Federal Home Loan Bank of Pittsburgh (1995 NOW/DDA Services)*

DPS Deposit Tickets—$0.5500 Per Deposit, Printing of Deposit Tickets

| Deposit items processed for volumes of: | Pass-through pricing varies-tiered by monthly volume |
|---|---|
| Deposit Processing Service (DPS) | |
| 1–25,000 | 0.0355 per item (transit) |
| 25,001–58,500 | 0.0349 per item |
| 58,501–91,500 | 0.0344 per item |
| 91,501–125,000 | 0.0338 per item |
| 125,001–158,500 | 0.0333 per item |
| 158,501–191,500 | 0.0327 per item |
| 191,501–over | 0.0322 per item |
| Deposit Items Encoded (West) | Pricing varies-tiered by monthly volume for volumes of: |
| 1–25,000 | $0.0292 per item |
| 25,001–58,500 | 0.0287 per item |
| 58,501–91,500 | 0.0282 per item |
| 91,501–125,000 | 0.0277 per item |
| 125,001–158,500 | 0.0272 per item |
| 158,501–191,500 | 0.0267 per item |
| 191,501–over | 0.0262 per item |
| Deposit Items Encoded (East) | Pricing varies-tiered by monthly volume for volumes of: |
| 1–25,000 | $0.0313 per item |
| 25,001–58,500 | 0.0308 per item |
| 58,501–91,500 | 0.0303 per item |
| 91,501–125,000 | 0.0298 per item |
| 125,001–158,500 | 0.0293 per item |
| 158,501–191,500 | 0.0288 per item |
| 191,501–over | 0.0283 per item |
| Deposit Items Returned | 1.8500 per item |
| Deposit Items Photocopied | 3.6500 per photocopy |

| Deposit items processed for volumes of: | Pass-through pricing varies-tiered by monthly volume |
|---|---|
| DPS Photocopies-Subpoena | 18.0000 per hour of processing time, |
| plus | 0.2000 per photocopy |
| Deposit Items Rejected | 0.2300 per rejected item |
| (applicable to pre-encoded deposits only) | |
| DPS Transportation (West) | 8.3500 per pickup |
| DPS Transportation (East) | 8.3500 per pickup |
| Return Check Courier Service | 120.0000 per month |

**Depository Account Services**

| | |
|---|---|
| Mail Deposits ''On-Us'' Returns Deposited: | $5.2500 per deposit |
| Qualified Returns | 0.4500 per item |
| Raw Returns | 1.9500 per item |
| Bond Coupon Collection | 5.7500 per envelope |
| Bond Coupon Returns | 14.0000 per coupon |
| Bond Collection: | |
| Bearer | 23.0000 per bond |
| Registered | 31.0000 per bond |
| Deposit Transfer Vouchers | 5.2500 per item Pass-through |
| Foreign Item Collection. | |

**Electronic Funds Transfers**

| | |
|---|---|
| Incoming Wire Transfers | $6.0000 per transfer |
| Outgoing Wire Transfers | 9.0000 per transfer |
| Foreign Wire Surcharge | 30.0000 per transfer* |
| Expected Wires Not Received | Penalty Assessed** |
| ACH Transaction Settlement (CR) | 0.2500 per transaction |
| ACH Transaction Settlement (DR) | 0.2500 per transaction |
| ACH Origination Items (CR) | 0.1500 per item |
| ACH Origination Items (DR) | 0.1500 per item |
| ACH Origination Record Set-Up | 1.5500 per record |
| ACH Origination Items Returned | 5.0000 per returned item |
| ACH Returns/NOC's-Facsimile | 2.0000 per transaction |
| ACH Returns/NOC's-Telephone | 3.2500 per transaction |
| ACH/FRB Priced Service Charges | 0.2500 per transaction |

* **Note:** The amount of this surcharge will be added to the amount of the outgoing funds transfer to produce a single total debit to be charged to the customer's account on the date of transfer.

** **Note:** Standard penalty is equivalent to the amount of the wire(s) times the daily IOD rate, divided by 360. If the wire not received causes the Bank to suffer any penalty, deficiency, or monetary loss, any and all related costs will also be assessed.

**Federal Reserve Settlement**

| | |
|---|---|
| FRB Statement Transaction (CR) | $0.5300 per transaction |
| FRB Statement Transaction (DR) | 0.5300 per transaction |
| Reserve Requirement Pass-Thru | 20.0000 per month (active) |
| Correspondent Transaction (DR) | 0.5300 per transaction |
| Direct Send Settlement | 140.0000 per month |
| FRB Inclearing Settlement | 140.0000 per month |

**Demand Deposit Services**

| | |
|---|---|
| Clearing Items Processed | $0.1400 per item |
| Clearing Items Fine Sorted (for return with Bank statements) | 0.0700 per item |
| Reconcilement Copies—Manual | 0.0820 per copy |
| Reconcilement Copies—14 MagTape | 0.0480 per copy |
| Reconcilement MagTape Processing | Pass-through |
| Reconcilement Copies—Voided | 0.0350 Pass-through |
| Check Photocopies—Mail | 3.6500 per photocopy |
| Check Photocopies—Telephone/Fax | 4.4000 per photocopy |
| Check Photocopies—Subpoena | 0.5220 per photocopy |
| Stop Payment Orders | 16.2500 per item |
| FRB Return Items | 0.4500 per item |
| FRB Return Items Over $2,500 | 6.0000 per item |
| Collections & Forgeries | 15.0000 per item |
| Imprinting of Standard Checks | 0.1000 per item |
| Non-Standard Imprinting | Pass-through |
| Microfiche Copies | 5.0000 per copy |
| Request for Fax/Photocopy | 3.0000 per document |

| Deposit items processed for volumes of: | Pass-through pricing varies-tiered by monthly volume |
|---|---|

**Proof Of Deposit (POD) Service**

Provides for outsourcing of all over-the-counter MICR document processing.

Pricing is customer-specific, based upon individual service requirements; please call your Marketing representative at (800) 288–3400 for further information.

**Coin & Currency Service: Western Service Area**

| | |
|---|---|
| Currency Orders | $0.3550 per $1,000* |
| Coin Orders | 2.2500 per box |
| Currency Deposits | 1.2000 per $1,000 |
| Coin Deposits | 1.8000 per standard bag |
| Coin Deposits (Non-Standard) | 2.7500 per non-standard bag |
| Coin Deposits (Unsorted) | 8.5000 per mixed bag |
| Food Stamp Deposits | 1.8000 per $1,000* |
| Coin Shipment Surcharge | 0.2500 per excess bag** |
| C&C Transportation (Zone W1) | 15.7500 per stop |
| C&C Transportation (Zone W2) | 27.2500 per stop |
| C&C Transportation (Zone W3) | 36.0000 per stop |
| C&C Transportation (Zone W4) | Negotiable*** |

**Coin & Currency Service: Eastern Service Area**

| | |
|---|---|
| Currency Orders | $0.2800 per $1,000* |
| Coin Orders | 2.7500 per box |
| Currency Deposits | 1.2000 per $1,000* |
| Coin Deposits | 1.8000 per standard bag |
| Coin Deposits (Non-Standard) | 2.7500 per non-standard bag |
| Coin Deposits (Unsorted) | 8.5000 per mixed bag |
| Food Stamp Deposits | 1.8000 per $1,000* |
| Coin Shipment Surcharge | 0.2500 per excess bag** |
| C&C Transportation (Zone E1) | 24.2500 per stop |
| C&C Transportation (Zone E2) | 34.5000 per stop |
| C&C Transportation (Zone E3) | 52.5000 per stop |
| C&C Transportation (Zone E4) | Negotiable*** |

*__Note:__ Charges will be applied to each $1,000 ordered or deposited, and to any portion of a shipment not divisible by that standard unit.
**__Note:__ A surcharge will apply to each container (box/bag) of coin in an order/delivery after the first 20 containers.
**__Note:__ Reserved for remote locations: delivery charges will be negotiated with the courier service on an individual basis.

**Check Processing (Inclearing)**

| Checks Processed for volumes of: | Pricing varies-tiered by monthly volume |
|---|---|
| 1–25,000 | $0.0422 per item |
| 25,001–58,500 | 0.0397 per item |
| 58,501–91,500 | 0.0372 per item |
| 91,501–125,000 | 0.0347 per item |
| 125,001–158,500 | 0.0322 per item |
| 158,501–191,500 | 0.0297 per item |
| 191,501–350,000 | 0.0272 per item |
| 350,001–500,000 | 0.0247 per item |
| 500,001–over | 0.0222 per item |

**Full Backroom Service (Item Processing Charges)**

| Truncated Checks for volumes of: | Pricing varies-tiered by monthly volume |
|---|---|
| Non-Truncated Checks for volumes of: | Pricing varies-tiered by monthly volume |
| 1–25,000 | $0.0555 per item |
| 25,001–58,500 | 0.0540 per item |
| 58,501–91,500 | 0.0525 per item |
| 91,501–125,000 | 0.0510 per item |
| 125,001–158,500 | 0.0495 per item |
| 158,501–191,500 | 0.0480 per item |
| 191,501–350,000 | 0.0465 per item |
| 350,001–500,000 | 0.0440 per item |
| 500,001–over | 0.0415 per item |
| Truncated Checks for volumes of: | Pricing varies-tiered by monthly volume |
| 1–25,000 | $0.0455 per item |
| 25,001–58,500 | 0.0440 per item |
| 58,501–91,500 | 0.0425 per item |
| 91,501–125,000 | 0.0410 per item |

| Deposit items processed for volumes of: | Pass-through pricing varies-tiered by monthly volume |
|---|---|
| 125,001–158,500 | 0.0395 per item |
| 158,501–191,500 | 0.0380 per item |
| 191,501–350,000 | 0.0365 per item |
| 350,001–500,000 | 0.0340 per item |
| 500,001–over | 0.0315 per item |

**Modified Backroom Service (Item Processing Charges)**

| Non-Truncated Checks for volumes of: | Pricing varies-tiered by monthly volume |
|---|---|
| 1–25,000 | $0.0446 per item |
| 25,001–58,500 | 0.0431 per item |
| 58,501–91,500 | 0.0416 per item |
| 91,501–125,000 | 0.0401 per item |
| 125,001–158,500 | 0.0386 per item |
| 158,501–191,500 | 0.0371 per item |
| 191,501–350,000 | 0.0356 per item |
| 350,001–500,000 | 0.0331 per item |
| 500,001–over | 0.0306 per item |
| Truncated Checks for volumes of: | Pricing varies-tiered by monthly volume |
| 1–25,000 | $0.0346 per item |
| 25,001–58,500 | 0.0331 per item |
| 58,501–91,500 | 0.0316 per item |
| 91,501–125,000 | 0.0301 per item |
| 125,001–158,500 | 0.0286 per item |
| 158,501–191,500 | 0.0271 per item |
| 191,501–350,000 | 0.0256 per item |
| 350,001–500,000 | 0.0231 per item |
| 500,001–over | 0.0206 per item |

**Check Processing (Associated Services)**

| | |
|---|---|
| Over-The-Counter Items | $0.1800 per item |
| Special Cycle Sorting | 0.0210 per item |
| Mid-Cycle Statement (Purged) | 0.5200 per item (Min $2.60) |
| Mid-Cycle Stmt. (Non-Purged) | 2.6000 per statement |
| Check (NOW) Statement Processing: | |
| Statements using Small Envelopes | 0.0575 per envelope |
| Statements using Custom Envelopes | 0.0940 per envelope |
| Statements using Large Envelopes | 0.5435 per envelope |
| Additional Stuffer Processing | 0.0250 per stuffer |
| (One stuffer per statement free—applicable to all additional stuffers) | |
| Selective Stuffer Processing | 0.0680 per statement |
| Daily Report Postage | Pass-through |
| Statement Postage | Pass-through |
| Standard Return Calls | 1.1000 per item |
| Automated Return Calls | 0.2600 per item |
| FHLBLink Return Calls | 0.9000 per item |
| Late Return Calls | 2.2000 per item |
| FRB Return Items | 0.4500 per item |
| FRB Return Items Over $2,500 | 6.0000 per item |
| Check Photocopies-Mail | 3.6500 per photocopy |
| Check Photocopies-Telephone/Fax | 4.4000 per photocopy |
| Check Photocopies-Subpoena | 0.5220 per photocopy |
| Signature Verification Copies | 0.7500 per copy |
| Check Retrieval | 1.5000 per item |
| MICRSort Option (Fixed Fee) | 26.0000 per month |
| MICRSort Option (per item) | 0.0300 per item |
| Check Reconcilement Service | *(See Separate Section)* |
| Collections & Forgeries | 15.0000 per item |
| MCPJ Microfiche Service | 0.0010 per item (Min. $15.00, Max $50.00) |
| Microfiche Copies | 5.0000 per copy |
| Microfilm Processing | 5.2500 per roll |
| Microfilm Duplication | 10.7500 per roll |
| Transportation | Pass-through |

**Statement Savings Processing**

| | |
|---|---|
| Statements using Small Envelopes | $0.0900 per envelope |
| Statements using Custom Envelopes | 0.1211 per envelope |

| Deposit items processed for volumes of: | Pass-through pricing varies-tiered by monthly volume |
|---|---|
| Statements using Large Envelopes | 0.5511 per envelope |

**Check Reconcilement Service**

| | |
|---|---|
| Reconcilement Items Processed | $0.2250 per item |
| Stop Payment Orders | 10.0000 per item |
| Microfiche Copies | 3.0000 per copy |
| Account Reconcilement | 15.0000 per account |

*__Note:__ Individual service charges are detailed in a monthly statement provided specifically for this service. The net of these charges is posted to Check Processing and appears as a single line item on the monthly billing statement.

**Account Maintenance**

| | |
|---|---|
| Demand Deposit Accounts | $21.5000 per month, per account |
| Audit Confirmation | 10.0000 per request, per account |
| Cut-Off Statements | 10.0000 per statement |
| Paper Advice of Transactions (DTS) | 1.0000 per statement |

**Account Overdraft Penalty**

Greater of $75.00 and interest on the amount of the overdraft
(Rate used for calculation equal to the highest posted advance rate plus 3.0%)

**Attention: Customers Receiving Transportation Charges Under Any Service**

Rates and charges relative to transportation vary depending on the location of the office(s) serviced. Details regarding the pricing for the transportation to/from specific institutions or individual locations will be provided upon their subscription to that service.

Surcharges may be applicable and will be applied to the customers as effective and without prior notice.

*District 4.—Federal Home Loan Bank of Atlanta (1995 NOW/DDA Services)*

(Does not provide item processing services for third party accounts.)

*District 5.—Federal Home Loan Bank of Cincinnati (1995 NOW/DDA Services)*

**Demand Deposit Account**

| | |
|---|---|
| Paid Items | $0.14 |
| Advice Reconciliation | 0.06 |
| Magnetic Tape Reconciliation | 0.06 |
| Stop Payments | 10.00 |
| Wire Transfers—In | 2.00 |
| Wire Transfers—In with Telephone Confirmation | 4.00 |
| Wire Transfers—Out | 5.00 |
| Charges | 0.15 |
| Credits | 0.15 |
| Photocopies | 1.00 |
| Fine Sorting | 0.01 |
| Large Dollar Return Notification | 2.00 |
| Check and Money Order Truncation | No charge |
| ACH Return and Notification of Change | 1.00 |
| Facsimile Transmission of ACH Detail and Advices | 1.00 per page ($10.00 monthly minimum) |
| Custodial Account Maintenance | 10.00/mo./acct. |
| Settlement Agent with Federal Reserve: | |
| ACH | $100.00/active month |
| Treasury Tax and Loan | 100.00/active month |
| Bond Activity | 100.00/active month |
| Currency and Coin | 100.00/active month |
| Security Purchases | 100.00/active month |
| Check Deposit Activity | 300.00/active month |
| Check Deposit Returns Only | 50.00/active month |
| NOW Activity | 300.00/active month |
| Credit Card Activity | 100.00/active month |
| Contemporaneous Reserve | 50.00/active month |

| Basic service items/month | Contractural fees | Daily return—sorted |
|---|---|---|
| **Inclearings/Now Accounts** | | |
| a. 1–50,000 | | $0.0320 |
| b. 50,001–100,000 | | .0200 |
| c. 100,001–200,000 | | .0100 |

| Basic service items/month | Contractural fees | Daily return—sorted |
|---|---|---|
| d. 200,001–400,000 | ..... | .0085 |
| e. 400,001–and over* | ..... | .0070 |

| Truncation | Without statement stuffing | Statement stuffing |
|---|---|---|
| a. $.0340 | $0.0370 | $0.0530 |
| b. .0240 | .0270 | .0510 |
| c. .0140 | .0180 | .0470 |
| d. .0090 | .0110 | .0400 |
| e. .0070 | .0090 | .0250 |

*Subject to regional operations considerations.

**Special Services**

| | |
|---|---|
| 1. Check Retrieval or Inspection of Original Item | $1.50 |
| 2. Photocopy | $1.00 |
| 3. Advertising Insertion | $0.02 per item |
| 4. Posted—On Us | |
| a. With FHLB encoding | $0.03 per item |
| b. Without FHLB encoding | $0.01 per item |
| 5. Statement Stuffing Service for Truncated Statement | $0.01 per statement |
| 6. Additional Sorting Upon Request | |
| a. Fine Sorting | $0.005 per item |
| b. Cycle Sorting | $0.005 per item |
| 7. Large Dollar Return Notification | $2.00 per item |
| 8. Return Items Processed by Bank | |
| a. First 1,000 | $1.75 |
| b. All Others | $0.75 |
| c. Qualification Requirements of EFAA | No Charge |
| 9. Return Items Processed by NOW User Qualification Requirements of EFAA | $.50 per item |
| 10. Return Item Clearing Fee | $FRB Pass-Thru |
| 11. Special Processing Requests | Negotiable |
| 12. Discount for Check Deposit Users | 5% off Basic Service Fees |
| 13. Discount for Credit and Disbursement Users | 5% off Basic Service Fees |

**Check Deposits**

| | |
|---|---|
| Nashville Operations Center: | |
| Nashville City/RCPC | .02 |
| U.S. Treasury Checks/Savings Bonds | .02 |
| Louisville City/RCPC | .025 |
| Memphis City/RCPC | .0475 |
| Other FRB | .0575 |
| Cleveland Operations Center: | |
| Cleveland City/RCPC | .02 |
| U.S. Treasury Checks/Savings Bonds | .02 |
| Columbus City/RCPC | .03 |
| Other FRB | .0575 |
| Cincinnati Operations Center: | |
| Cincinnati City/RCPC | .02 |
| U.S. Treasury Checks/Savings Bonds | .02 |
| Louisville City/RCPC | .02 |
| Columbus City/RCPC | .025 |
| Other FRB | .0575 |

**Volume Discount**

Volume discounts on all items when total deposited items fall within below listed categories:

| Discount | Monthly Volume Range |
|---|---|
| 10% | 100,001–200,000 |
| 20% | 200,001 and over |

**Additional Services**

| | |
|---|---|
| 1. Encoding by FHLB Operations Center | |
| *Cincinnati & Cleveland | $.0225 per item |
| *Nashville | $.0250 per item |
| 2. Photocopy | $1.00 per item |

| | |
|---|---|
| 3. Dishonored Item Returned by Bank | $.25 per item |
| 4. Large Dollar Return Notification | $2.00 |
| 5. Non-Cash Collection Minimum Service Fees, In Addition to Collecting Bank Fees | |
| a. Non-Cash Item | $5.00 per item |
| b. Security Coupon Collection | $5.00 per envelope |
| c. Coupon Return Item | $10.00 per item |
| d. Foreign Item | $5.00 per item |
| e. Food Stamp Cash Letter | $1.00 per cash letter |
| f. Municipal Bonds | $5.00 per item |
| g. Government Coupons | No Charge |
| 6. Depository Transfer Checks (DTC) | $5.00 per item |
| 7. Cash Letter Fee | |
| a. Less than 100,000 items per month | $1.00 per cash letter |
| b. 100,000 or more items per month | $.25 per cash letter |
| 8. Funds Availability | |
| a. See regional availability schedules | |
| b. No deduction for fractional availability or reserve requirements | |

**Northern Ohio Institutions**

| | |
|---|---|
| **Preparation Charge** | |
| $12.00 per currency order | |
| $2.00 per box wrapped coin | |

**Kentucky and Southern Ohio Institutions**

| | |
|---|---|
| **Preparation Charge** | |
| $10.50 per currency order | |
| $2.00 per box wrapped coin | |

**Ohio and Kentucky Institutions**

| | |
|---|---|
| **Pick-up of Currency and Coin** | |
| $5.00 per starpped currency deposit | |
| $6.00 per mixed or unfilled straps of currency | |
| $2.50 per bag of loose coin (same denomination) | |
| $5.00 per bag of loose coin (mixed denomination) | |
| $5.00 per bag of wrapped coin (same denomination) | |
| $8.00 per bag of wrapped coin (mixed denomination) | |

**Note:** Preparation charge for later notification of order requiring special pick-up or registered mail delivery will be increased in the amount of 10%.

**Memphis Federal Reserve Territory Institutions**

| | |
|---|---|
| **Preparation Charge** | |
| $4.00 per currency and/or loose coin order | |
| **Pick-up of Currency and Coin** | |
| $2.00 per occurrence | |

**Nashville Federal Reserve Territory Institutions**

| | |
|---|---|
| **Preparation Charge** | |
| $4.00 per currency and/or loose coin order | |
| $.0375 per roll—wrapped coin | |
| **Pick-up of Currency and Coin** | |
| $2.00 per occurence | |
| **Transportation Charge** | |
| Please contact the Bank for the specific fee relative to your area. | |

**Lockbox**

| | |
|---|---|
| OCR Standard Per Item Fee | .25 |

| | |
|---|---|
| Includes:<br>Courier Pick-up at Lockbox<br>Microfilming of Check and Document<br>Transmission to Service Bureau<br>Management Reports<br>Check Deposit Fee (Encoding and Clearing)<br>Certain Exception Handling | |

**Additional Services**

| | |
|---|---|
| Lockbox Rental | Actual Cost |
| Photocopies | 1.00 |
| Hot File Update (Add or Delete) | .50 per update |
| Hot File Update (Magnetic Tape) | 10.00 per tape |
| Courier/Postage | Actual—Outgoing |
| Dishonored Item Returned by Bank | .25 |
| Large Dollar Return Notification | 2.00 per item |
| Reject or Unmatched Item | .15 |
| Other Desired Services | Cost Basis |

| Settlement options | Money orders and dividend checks | Official checks |
|---|---|---|
| **Alternative Disbursement Service** | | |
| | 1-Day<br>2-Day.<br>Tuesday Weekly. | 1-Day. |
| Processing Fees | Based on settlement option and check volume. | |
| Earnings Incentive* | Not Applicable | Based on settlement option and float balances. |

*The earning incentive is a monthly interest payment to the ADS customer based on its actual check activity. The earnings incentive interest rate is indexed to the 91-Day Treasury Bill rate.

*District 6.—Federal Home Loan Bank of Indianapolis (1995 NOW/DDA Services)*

*Cash Management Services*

**Transaction Charges**

| | |
|---|---|
| Paid Check Charge | $0.16 per item |
| Paper Advice | .065 per item |
| Tape Advice | .040 per item |
| Stop Payments | 6.00 per stop |
| Photo copies | 2.50 per copy |
| Find Sort Numeric Sequence | .025 per item |
| Collection/Return/Exception | 5.00 |
| Daily Statement | 2.00 |
| Maintenance | 30.00 per month |
| Debit Entries | no charge |
| Credit Entries | no charge |
| Checks (Administration Fee) | .02 per item |
| Special Cutoff | no charge |
| Infoline | 50.00 per month |
| VRU (Voice Response) | 1.00 per inquiry |

Collected Balances Will Earn Interest at the CMS daily posted rate.

*Now Account Services*

*Transaction Charges*

| Monthly volume | Safekeeping | | Turnaround (daily or cycled) | | Complete | | Image | |
|---|---|---|---|---|---|---|---|---|
| | Per item | Cost | Per Item | Cost | Per item | Cost | Per item | Per Stmt |
| 0–5,000 | .048 | 240. | .056 | 280. | .080 | 400. | .06 | .40 |
| 5–10,000 | .040 | 200. | .051 | 255. | .078 | 390. | .06 | .40 |
| 10–15,000 | .039 | 195. | .047 | 235. | .076 | 380. | .06 | .40 |
| 15–25,000 | .034 | 340. | .040 | 400. | .075 | 750. | .06 | .40 |
| 25–50,000 | .033 | 825. | .036 | 900. | .073 | 1,825. | .06 | .40 |
| 50–75,000 | .029 | 725. | .033 | 825. | .069 | 1,725. | .06 | .40 |
| 75–100,000 | .026 | 650. | .030 | 750. | .068 | 1,700. | .06 | .40 |
| 100–and up | .024 | | .027 | | .067 | | .06 | .40 |

**Ancillary Service Fees**

| | |
|---|---|
| Large Dollar Signature Verification | $0.50 |
| Over-the-Counters and Microfilm | 0.035 |
| Return Items | 2.15 |
| Photocopies ** and Facsimiles | 2.50 |
| Certified Checks | 1.00 |
| Invalid Accounts | .50 |
| Invalid Returns | 0.50 |
| Late Returns | 0.50 |
| No MICR/OTC | 0.50 |
| Settlement Only | 100.00 per month |
| + Journal Entries | 3.00 each |
| Encoding Errors | 2.75 |
| Fine Sort Numeric Sequence | 0.02 |
| Access to Infoline | 50.00 per month |
| High Dollar Return Notification | no charge |
| Debit Entries | no charge |
| Crdit Entries | no charge |
| Standard Stmt. Stuffers (up to 2)*** | no charge |

Minimum processing fee of $40.00 per month will apply for total NOW services.

Also included in the above fees—at *no* additional cost are Federal Reserve fees, incoming courier fees, software changes, disaster recovery, envelope discount and inventory.

* Image Monthly Maintenance Fee of $500.00 for 0–32% of accounts; $300.00 for 33–49% of accounts; and $200.00 for 50%+ will be assessed for Image Statements.

** Photocopy request of 50 or more are charged at an hourly rate of $15.00.

*** Each additional (over 2) will be charged at $.02 per statement.

| | Fee |
|---|---|
| **Wire Transfer Services** | |
| In (Per transfer) Domestic | $4.00 |
| Out (Per transfer) Domestic | 7.50 |
| International Wires | 25.00 |
| **Depository Transfer Checks** | |
| Per Check | $2.00 |
| **Treasury Tax and Loan Settlement Service** | |
| Per Transaction | $2.00 |
| **Charge Card Transaction** | |
| Per Transaction | $1.50 |
| **Automated Clearing House (ACH) Service** | |
| Tape Transmission | $8.50 |
| or Origination | .045 per item |
| MACHA, INDEX | Actual Federal Reserve Changes |
| ACH Entries Clearing through our R&T Number | $.25 per item |
| Settlement Only | $65.00 per month |
| ACH Returns/NOC | $2.50 per item |
| **Coin and Currency** | |
| Deliveries—Indiana and Michigan Prices based on delivery location, excess bag fee (courier) and order preparation. | |
| Cost will vary per institution: | |
| Returns | $12.50 |
| Non-Transit Customer | $10.00 |
| Orders (Member uses own courier) | $15.00 |
| Special Order* | $15.00 |
| *Any order placed after normal order has been received and processed by Federal Home Loan Bank. | |
| **Proof and Transit Processing** | |
| Pre-encoded Items: | |
| City | $0.04 per item |

| | Fee |
|---|---|
| RCPC | $0.05 per item |
| Other Districts | $0.085 per item |
| Unencoded | $0.165 per item |
| Food Stamp | $0.14 per item |
| Photocopies* | $2.50 per copy |
| Adjustments on pre-encoded work | $2.75 per error |
| E Z Clear | $0.14 per item |
| Coupons | $8.25 per envelope |
| Collections | $6.00 per item |
| Cash Letter | $2.00 per cash letter |
| Deposit Adjustments | $0.30 per adjustment |
| Debit Entries | no charge |
| Credit Entries | no charge |
| Microfilming | no charge |
| Mortgage Remittance (Basic Service) | $0.35 |
| Settlement Only | $100.00 per month |
| + Journal Entries | $3.00 each |
| Third Party Fedline | $.50 each |
| Courier** | |
| Marion County | $8.25 per location, per day, per pickup |
| Other | Prices vary per location |

*Multiple Photocopies (more than 50 per request) $15.00 hour
**Includes branch work transfer and correspondence to and from Federal Home Loan Bank.
**All Fees Subject to Change**

*District 7.—Federal Home Loan Bank of Chicago (1995 NOW/DDA Services)*

(Does not provide item processing services for third party accounts)

*District 8.—Federal Home Loan Bank of Des Moines (1995 NOW/DDA Services)*

**Demand Account Analysis Fee Schedule**

| | |
|---|---|
| Account Maintenance | $12.00 |
| Account Reconciliation | 35.00 |
| Daily Statements: | |
| Via SMARTS | No Charge |
| Paper Daily Advice (Per day) | 2.50 |
| Balance Reporting (Phone—manual) | 75.00 |
| Drafts Paid: | |
| Truncated | 0.045 |
| Non-Truncated | 0.055 |
| Stop Payments | 7.00 |
| Ledger Entries—Credits | 0.35 |
| Ledger Entries—Debits | 0.15 |
| Bank Wires In | 3.00 |
| Bank Wires Out: | |
| Without Phone Advice | 4.00 |
| With Phone Service | 6.00 |
| ACH Settlement Charges | 1.00 |
| Special Cut-Off Statements | 10.00 |
| Account Reconciliation Tape Issues | 0.015 |
| Issue Encoding | 0.0225 |
| Pre-Encoded Issues | 0.015 |
| Collections: | |
| Bonds/Coupons Per Envelope | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual) |
| Foreign | 25.00 (Plus Actual) |
| Miscellaneous | Actual |

**ACH Fee Schedule**

| | |
|---|---|
| ARB/ACH Pass Thru | Actual |
| FRB/ACH Settlement | $1.00 |
| Origination service: | |
| Set Up New Account (One Time Charge) | 50.00 |
| Formatted Tape | 10.00 |
| Reformat Tape | 10.00 |
| Per Item On Tape* | .05 |
| Paper input: | |
| Monthly Maintenance | 20.00 |

| | |
|---|---|
| Data Entry Per Item* | .25 |
| Day Cycle Deposit Charge: | |
| Local DB/CR | .0550 |
| Out-of-State DB/CR | .0550 |
| Prenotes | .0550 |
| Addendas | .0550 |
| Night Cycle Deposit Charge Premium: | |
| Local DB/CR | .07 |
| Out-of-State DB/CR | .07 |
| Prenotes | .07 |
| Addendas | .07 |
| Warehousing Per Item | .0050 |
| Originator Volume Discount—Monthly | |
| 5,000 to 20,000 | −.005 |
| 20,000–Over | −.01 |
| Return Items | 1.50 |
| Transportation Charges | Negotiable |
| Special Service/Handling | Negotiable |
| Telephone Advice: | |
| Per Call | 2.00 |
| Miscellaneous | Actual |
| Minimum Monthly Billing | 50.00 |
| *Plus ACH Origination Fee. | |

DES MOINES REGIONAL CENTER DEPOSIT PROCESSING FEE SCHEDULE

| Description | Below 50,000 | 50,000–100,000 | 100,000–300,000 | Over 300,000 |
|---|---|---|---|---|
| **Deposited Item Charges** | | | | |
| Local | .02 | .015 | .014 | .011 |
| RCPC | .030 | .025 | .022 | .020 |
| RCPC—Premium | .045 | .045 | .045 | .045 |
| Transit | .0525 | .051 | .05 | .049 |

| **Other Fees** | |
|---|---|
| Encoding | $.0225 |
| Return Items: | |
| Return Items | .75/item |
| Special Handling | |
| Subtotal by Office | 1.50/office total |
| Individual Entries | .50/entry |
| Telephone Notification less than $2,500 | .60/item |
| Large Dollar Notification (Reg. J.) | 3.00/item |
| Collection/Settlement Services: | |
| Bonds/Coupons Per Envelope | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual) |
| Canadian Items | .25/item |
| Foreign | 25.00 (Plus Actual) |
| Miscellaneous | Actual |
| Federal Reserve Settlement Entries | 1.00/entry |
| Food Coupons | .02 |
| Non-Processable Items | .15/item |
| Cash Services: | |
| Currency/Coin Orders | 2.00/order |
| Special Orders | Standard order fee |
| Foreign Currency Orders | 2.50/order |
| Coin—per roll | .0385/roll |
| Currency/Coin Deposits: | |
| Standard Packaging | .50 |
| Non-Standard Packaging | 10.00 |
| Foreign Currency Deposits | 5.00/deposit |
| Currency Per Strap | .25 |
| Delivery Charge (includes return delivery to FRB Chicago) | 42.61/stop |
| Balance/Availability Reporting | 30.00/month |
| Endpoint Analysis | 20.00/day |
| Photocopies | 2.75/copy |
| Research | 20.00/hour |

KANSAS CITY REGIONAL CENTER DEPOSIT PROCESSING FEE SCHEDULE

| Description | Below 25,000 | 25,000–50,000 | 50,000–250,000 | Over 250,000 |
|---|---|---|---|---|
| **Deposited Item Charges** | | | | |
| Local | 0.0170 | 0.0160 | 0.0150 | 0.0075–0.0140 |
| Regional | 0.0280 | 0.0250 | 0.0220 | 0.0150–0.021 |
| Country | 0.0280 | 0.0250 | 0.0220 | 0.0150–0.021 |
| Transit | 0.0540 | 0.0530 | 0.0510 | 0.0435–0.050 |

| **Other Services** | |
|---|---|
| Encoding: | |
| Below 25,000 | $0.0300 |
| 25,000–50,000 | 0.0250 |
| 50,000–250,000 | 0.0225 |
| Over 250,000 | 0.0200 |
| Return Items: | |
| 0–999 | 0.75 |
| 1,000 and Over | 0.65 |
| Special handling: | |
| Subtotal by Office | 1.50/office total |
| Selected Account Chargeback | .025/item |
| Individual Entries | .50/entry |
| Telephone Notification less than $2,500 | .60/item |
| Large Dollar Notification (Reg. J.) | 3.00/item |
| Collection/Settlement Services: | |
| Bonds/Coupons Per Envelope | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual) |
| Canadian Items | .25/item |
| Foreign | 25.00 (Plus Actual) |
| Miscellaneous | Actual |
| Federal Reserve Settlement Entries | 1.00/entry |
| Food Coupons | .02 |
| Non-Processable Items | 0.15 |
| Cash Services: | |
| Currency/Coin Orders | 3.00/order |
| Special Orders | 3.00/order, actual charges |
| Foreign Currency Orders | 5.50/order |
| Currency/Coin Deposits: | |
| Standard Packaging | .50/deposit |
| Non-Standard Packaging | 10.00/deposit |
| Foreign Currency Deposits | 5.00/deposit |
| Balances/Availability Reporting | 30.00/month |
| Endpoint Analysis | 30.00/each, over two per year |
| Photocopies/Microfilm Copies | 2.75/copy |
| Audit | 2.75/copy or 20.00/hour+.50 copy, whichever is less |
| Research | 20.00/hour |

MINNEAPOLIS REGIONAL CENTER DEPOSIT PROCESSING FEE SCHEDULE

| Description | Below 25,000 | 25,000–50,000 | 50,000–250,000 | Over 250,000 |
|---|---|---|---|---|
| **Deposited Item Charges** | | | | |
| Local | .02 | .016 | .014 | .013 |
| RCPC | .032 | .025 | .018 | .016 |
| RCPC—Premium | .045 | .04 | .035 | .03 |
| Country | .04 | .038 | .036 | .035 |
| Transit | .063 | .058 | .054 | .032 |
| **Out-of-District Customers—Deposited Item Charges** | | | | |
| Local | .0250 | .0210 | .0160 | .0150 |
| RCPC | .0370 | .0300 | .0200 | .0180 |
| RCPC—Premium | .0500 | .0450 | .0400 | .0350 |
| Country | .0450 | .0430 | .0380 | .0370 |
| Transit | .0730 | .0680 | .0580 | .0560 |

| Other Services | |
|---|---|
| Encoding: | |
| 1 to 250,000 | $.0250 |
| Over 250,000 items | .0225 |
| Return Items: | |
| Return Items | .75/item |
| Special Handling Subtotal by Office | 1.50/office total |
| Individual Entries | .50/entry |
| Telephone Notification less than $2,500 | .60/item |
| Large Dollar Notification (Reg. J.) | 3.00/item |
| Collection/Settlement Services: | |
| Bonds/Coupons Per Envelope | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual) |
| Canadian Items | .25/item |
| Foreign | 25.00 (Plus Actual) |
| Miscellaneous | Actual |
| Federal Reserve Settlement Entries | 1.00/entry |
| Food Coupons | .04 |
| Non-Processale Items | .15/item |
| Cash Services: | |
| Currency/Coin Orders | 2.00/order |
| Special Orders | Standard order fee plus actual charges |
| Foreign Currency Orders | 2.50/order |
| Currency/Coin Deposits | 2.00/order |
| Standard Packaging | .50 |
| Non-Standard Packaging | 10.00 |
| Foreign Currency Deposits | 5.00/deposit |
| Balance/Availability Reporting | 30.00/month |
| Endpoint Analysis | 20.00/day |
| Photocopies | 2.75/copy |
| Research | 20.00/hour |

## St. Louis Regional Center Deposit Processing Fee Schedule

| Description | Below 25,000 | 25,000–50,000 | 50,000–100,000 | 100,000–200,000 | Over 200,000 |
|---|---|---|---|---|---|
| **Deposited Item Charges** | | | | | |
| Local | .024 | .022 | .020 | .018 | .017 |
| RCPC | .028 | .025 | .023 | .021 | .018 |
| Country | .028 | .025 | .023 | .021 | .020 |
| Transit | .058 | .055 | .053 | .051 | .050 |
| Package Sort: | | | | | |
| Local | .021 | .018 | .017 | .015 | .011 |
| RCPC | .025 | .022 | .020 | .018 | .017 |
| Country | .025 | .022 | .020 | .019 | .018 |
| Transit | .055 | .052 | .050 | .048 | .047 |

**Note:** Package Sort prices are available to customers who present deposits separated by item type.

| Description | Below 25,000 | 25,000–50,000 | 50,000–100,000 | 100,000–200,000 | Over 200,000 |
|---|---|---|---|---|---|
| **Out-of-District Customers—Deposited Item Charges** | | | | | |
| Local | .029 | .027 | .022 | .020 | .019 |
| RCPC | .033 | .030 | .025 | .023 | .020 |
| Country | .033 | .030 | .025 | .023 | .022 |
| Transit | .068 | .065 | .057 | .055 | .054 |
| Package Sort: | | | | | |
| Local | .026 | .023 | .019 | .017 | .013 |
| RCPC | .030 | .027 | .022 | .020 | .019 |
| Country | .030 | .027 | .022 | .021 | .020 |
| Transit | .065 | .062 | .054 | .052 | .051 |

**Note:** Package Sort prices are available to customers who present deposits separated by item type.

| Other Services | |
|---|---|
| Encoding | $.025 |

| | |
|---|---|
| Return Items: | |
| Return Items | .75/item |
| Special Handling | |
| Subtotal by Office | 1.50/office total |
| Individual Entries | .50/entry |
| Telephone Notification less than $2,500 | .60/item |
| Large Dollar Notification (Reg. J.) | 3.00/item |
| Collection/Settlement Services: | |
| Bonds/Coupons Per Envelope | |
| Local/Governemnt | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual) |
| Canadian Items | .25/item |
| Foreign | 25.00 (Plus Actual) |
| Miscellaneous | Actual |
| Federal Reserve Settlement Entries | 1.00/entry |
| Food Coupons | .02 |
| Non-Processable Items | .15/item |
| Cash Services: | |
| Currency/Coin Orders | 4.00/order |
| Special Orders | Standard order fee plus actual charges |
| Currency/Coin Deposits Standard Packaging | .50 |
| Non-Standard Packaging | 2.00 |
| Balance/Availability Reporting | 30.00/month |
| Endpoint Analysis | 20.00/day |
| Photocopies | 2.75/copy |
| Research | 20.00/hour |

## DES MOINES REGIONAL CENTER

| Monthly capture volume | Basic fee (capture) | Daily sort (1) (2) | Cycle/ monthly sort (2) |
|---|---|---|---|
| **Inclearing Processing Fee Schedule** | | | |
| 1–25,000 | .020 | .017 | .020 |
| 25,001–50,000 | .016 | .013 | .016 |
| 50,001–75,000 | .014 | .011 | .014 |
| 75,001–175,000 | .012 | .009 | .012 |
| 175,001–400,000 | .010 | .007 | .010 |
| 400,001–750,000 | .009 | .006 | .009 |
| 750,001–Over | .007 | .004 | .007 |
| Reject Reentry | .04/item | | |
| Posting File | .0005/item | | |

| Volume levels | Basic service [3] | Telephone request [3] | Forward collection only [4] | |
|---|---|---|---|---|
| | | | Unqualified | Qualified [5] |
| **Return Items:** | | | | |
| 1–500 | $2.65 | $3.50 | $0.60 | $0.25 |
| 501–750 | 2.10 | NA | .60 | .25 |
| 751–1,00 | 1.85 | NA | .60 | .25 |
| 1,001–3,000 | 1.15 | NA | .60 | .25 |
| 3,001–Over | .75 | NA | .55 | .25 |
| Regulation J Notification | 3.00/item | | | |

[1] Surcharge for same-day return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

**Other Services**

| | |
|---|---|
| Support Services: | |
| Certified Checks | .50/item |
| Facsimile Transmission | 1.50/transmission |
| Microfiche Monthly Reports | 25.00/month |
| Microfilm of Checks Captured | .01/item |
| Original Item Return | 2.75/item |
| Research | 20.00/hour |
| Stop Payments | 5.00/stop |

| | |
|---|---|
| Telephone Check Inquiry | 1.00/inquiry |
| Signature Verification | .35/item |
| Counter Items: | |
| With MICR Encoding | .04/item |
| Without MICR Encoding | .10/item |
| Photocopies/Microfilm Copies | 2.75/item |
| Audit | 2.75/item or 20.00/hour ÷ .50/copy, whichever is less |
| Settlement: | |
| Daily Reporting | 25.00/month |
| Settlement Only (Inclearings or returns) | 100.00/month |
| Third Party Settlement | 350.00/month |
| Special Sorting Options: | |
| Account Separators | .003/item ($175.00 minimum) |
| Truncated Items Returned Unsorted | .002/item |
| Truncated Items Returned Sorted | .012/item ($250.00 minimum) |
| Sequence Number Order | .005/item |
| Other Miscellaneous Fine Sorting | .005/item |

**Special Services**

| | |
|---|---|
| Backup Service: | |
| Set-Up Charge | 500.00–1,500.00 one time |
| Monthly Maintenance | Negotiable plus actual monthly usage |
| File Maintenance | |
| Mergers/Acquisitions | 500.00/each |
| Multiple R/T Numbers | 50.00/number/month |
| Parameter File Maintenance | 25.00/change |
| Multiple Sorter Pockets | 300.00/pocket/month |
| Data Servicer Conversion | 500.00/conversion |
| Minimum Monthly Charge (Excluding Actual Charges) | 250.00 |

## Kansas City Regional Center

*Inclearing Processing Fee Schedule*

| Monthly capture volume | Basic fee (capture) | Daily sort [1] [2] | Cycle/monthly sort [2] |
|---|---|---|---|
| 1–50,000 | .016 | .013 | .016 |
| 50,001–100,000 | .014 | .011 | .014 |
| 100,001–175,000 | .012 | .009 | .012 |
| 175,001–400,000 | .010 | .007 | .010 |
| 400,001–750,000 | .009 | .006 | .009 |
| 750,001–Over | .007 | .004 | .007 |
| Reject Reentry | .04/item | | |
| Posting File | .0005/item | | |

*Return Items*

| Volume levels | Basic service [3] | Telephone request [3] | Forward collection only [4] | |
|---|---|---|---|---|
| | | | Unqualified | Qualified [5] |
| 1–750 | $1.60–2.65 | $3.50 | $.75 | $.27 |
| 751–2,500 | 0.95–1.85 | NA | .70 | .27 |
| 2,501–Over | 0.65–1.55 | NA | .65 | .23 |
| Regulation J Notification | 3.00/item | | | |

[1] Surcharge for same-day daily return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

*Other Services*

| | |
|---|---|
| Support Services: | |
| Certified Checks | .50/item. |
| Facsimile Transmission | 1.50/transmission. |
| Microfiche Monthly Reports | 25.00/month. |
| Microfilm of Checks Captured | .01/item. |
| Original Item Return | 2.75/item. |
| Research | 20.00/hour. |
| Stop Payments | 5.00/stop. |
| Telephone Check Inquiry | 1.00/inquiry. |

| | |
|---|---|
| Signature Vertification | .35/item. |
| Counter Items: | |
| With MICR Encoding | .04/item. |
| Without MICR Encoding | .10/item. |
| Photocopies/Microfilm Copies: | |
| Audit | 2.75/item. |
| | 2.75/item or 20.00/hour+.50/copy, whichever is less. |
| Settlement: | |
| Daily Reporting | 25.00/month. |
| Settlement Only (Inclearings or Returns) | 100./month. |
| Third Party Settlement | 350.00/month. |
| Special Sorting Options: | |
| Account Separators | .003/item ($175.00 minimum). |
| Truncated Items Returned Unsorted | .002/item. |
| Truncated Items Returned Sorted | 0.12/item ($250.00 minimum). |
| Sequence Number Order | .005/item. |
| Other Miscellaneous Fine Sorting | .005/item. |

*Special Services*

| | |
|---|---|
| Backup Service: | |
| Set-Up Charge | 500.00–1,500.00 one time. |
| Monthly Maintenance | Negotiable plus actual monthly usage. |
| File Maintenance: | |
| Mergers/Acquisitions | 500.00/each. |
| Multiple R/T Numbers | 50.00/number/month. |
| Parameter File Maintenance | 25.00/change. |
| Multiple Sorter Pockets | 300.00/pocket/month. |
| Data Servicer Conversion | 500.00/conversion. |
| Minimum Monthly Charge (Excluding Actual Charges) | 250.00. |

**Minneapolis Regional Center**

*Inclearing Processing Fee Schedule*

| Monthly capture volume | Basis fee (capture) | Daily sort [1 2] | Cycle/ monthly sort [2] |
|---|---|---|---|
| 1–25,000 | .020 | .017 | .020 |
| 25,001–50,000 | .016 | .013 | .016 |
| 50,001–75,000 | .014 | .011 | .014 |
| 75,001–175,000 | .012 | .009 | .012 |
| 175,001–400,000 | .010 | .007 | .010 |
| 400,001–750,000 | .009 | .006 | .009 |
| 750,001–Over | .007 | .004 | .007 |
| Reject Renentry | .04/item | | |
| Posting File | .005/item | | |

[1] Surcharge for same-day return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.

*Return Items*

| Volume levels | Basic service [3] | Telephone forward collection only [4] | | | |
|---|---|---|---|---|---|
| | | Request [3] | Qualified | Qualified [5] | Premium |
| 1–2,000 | $.65–2.65 | $3.50 | $.70 | $.28 | $.34 |
| 2,001–4,000 | 1.15–1.90 | NA | .70 | .28 | .34 |
| 4,001–Over | .75–1.65 | NA | .65 | .28 | .34 |
| Regulation J. Notification | 3.00/item | | | | |

[3] Full service processing. Excludes large dollar notification required under Regulation CC an J.
[4] Return times received for forward collection.
[5] Items must be fully qualified using that sensitive strips.

*Other Services*

| | |
|---|---|
| Support Services: | |
| Certified Checks | .50/item. |
| Facsmile Transmission | 1.50/transmission. |
| Microfiche Monthly Reports | 25.00/month. |
| Microfilm of Checks Captured | .01/item. |
| Original Item Return | 2.75/item. |
| Research | 20.00/hour. |
| Stop Payments | 5.00/stop. |
| Telephone Check Inquiry | 1.00/inquiry. |

| | |
|---|---|
| Signature Verification | .35/item. |
| Counter Items: | |
| With MICR Encoding | .04/item. |
| Without MICR Encoding | .10/item. |
| Photocopies/Microfilm Copies: | |
| Audit | 2.75/item. |
| | 2.75/item or 20.00/hour+.50/copy, whichever is less. |
| Settlement: | |
| Daily Reporting | 25.00/month. |
| Settlement Only (inclearings or Returns) | 100.00/month. |
| Third Party Settlement | 350.00/month. |
| Special Sorting Options: | |
| Account Separators | .003/item ($175.00 minimum). |
| Truncated Items Returned Unsorted | .002/item. |
| Truncated Items Returned Sorted | .012/item ($250.00 minimum). |
| Sequence Number Order | .005/item. |
| Other Miscellaneous Fine Sorting | .005/item. |

*Special Services*

| | |
|---|---|
| Backup Service: | |
| Set-Up Charge | 500.00—1,500.00 one time. |
| Monthly Maintenance | Negotiable plus actual monthly usage. |
| File Maintenance: | |
| Mergers/Acquistiions | 500.00/each. |
| Multiple R/T Numbers | 50.00/number/month. |
| Parameter File Maintenance | 25.00/change. |
| Multiple Sorter Pockets | 300.00/pocket/month. |
| Data Servicer Conversion | 500.00/conversion. |
| Minimum Monthly charge (Excluding Actual Charges) | 250.00. |

**St. Louis Regional Center**

*Inclearing Processing Fee Schedule*

| Monthly capture volume | Basic fee (capture) | Daily sort [1] [2] | Cycle/monthly sort [2] |
|---|---|---|---|
| 1–25,000 | .020 | .017 | .020 |
| 25,001–50,000 | .016 | .013 | .016 |
| 50,001–75,000 | .014 | .011 | .014 |
| 75,001–175,000 | .012 | .009 | .012 |
| 175,001–400,000 | .010 | .007 | .010 |
| 400,001–750,000 | .009 | .006 | .009 |
| 750,001–Over | .007 | .004 | .007 |
| Reject Reentry | .04/item | ..... | ..... |
| Posting File | .0005/item | ..... | ..... |

*Return Items*

| Volume levels | Basic service [3] | Telephone request [3] | Forward collection only [4] | |
|---|---|---|---|---|
| | | | Unqualified | Qualified [5] |
| 1–500 | $2.25 | $3.50 | $.60 | $.20 |
| 501–1,000 | 2.00 | NA | .60 | .20 |
| 1,001–2,500 | 1.75 | NA | .60 | .20 |
| 2,501–Over | 1.25 | NA | .50 | .20 |
| Regulation J Notification | 3.00/item | ..... | ..... | ..... |

[1] Surcharge for same-day daily return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

*Other Services*

| | |
|---|---|
| Support Services: | |
| Certified Checks | .50/item. |
| Facsimile Transmission | 1.50/transmission. |
| Microfiche Monthly Reports | 25.00/month. |
| Microfilm of Checks Captured | .01/item. |
| Original Item Return | 2.75/item. |
| Research | 20.00/hour. |
| Stop Payments | 5.00/stop. |

| | |
|---|---|
| Telephone Check Inquiry | 1.00/inquiry. |
| Signature Verification | .35/item. |
| Counter Items: | |
| With MICR Encoding | .04/item. |
| Without MICR Encoding | .10/item. |
| Photocopies/Microfilm Copies: | |
| Audit | 2.75/item. |
| | 2.75/item or 20.00/hour+.50/copy, whichever is less. |
| Settlement: | |
| Daily Reporting | 25.00/month. |
| Settlement Only (Inclearing or Returns) | 100.00/month. |
| Third Party Settlement | 350.00/month. |
| Special Sorting Options: | |
| Account Separators | .003/item ($175.00 minimum). |
| Truncated Items Returned Unsorted | .002/item. |
| Truncated Items Returned Sorted | .012/item ($250.00 minimum). |
| Sequence Number Order | .005/item. |
| Other Miscellaneous Fine Sorting | .005/item. |

*Special Services*

| | |
|---|---|
| Backup Service: | |
| Set-Up Charge | 500.00–1,500.00 one time. |
| Monthly Maintenance | Negotiable plus actual monthy usage. |
| File Maintenance: | |
| Mergers/Acquisitions | 500.00/each. |
| Multiple R/T Numbers | 50.00/number/month. |
| Parameter File Maaaaintenance | 25.00/change. |
| Multiple Sorter Pockets | 300.00/pocket/month. |
| Data Servicer Conversion | 500.00/conversion. |
| Minimum Monthly Charge (Excluding Actual Charges) | 250.00. |

**Minneapolis/St. Louis Regional Center—Out-of-District Customers**

*Inclearing Processing Fee Schedule*

| Monthly capture volume | Basic fee (capture) | Daily sort [1 2] | Cycle/ monthly sort [2] |
|---|---|---|---|
| 1–25,000 | .021 | .018 | .021 |
| 25,001–50,000 | .017 | .014 | .017 |
| 50,001–75,000 | .015 | .012 | .015 |
| 75,001–175,000 | .013 | .010 | .013 |
| 175,001–400,000 | .011 | .008 | .011 |
| 400,001–750,000 | .010 | .007 | .010 |
| 750,001–Over | .008 | .005 | .008 |
| Reject Reentry | .04/item | | |
| Posting | .005/item | | |

*Return Items*

Minneapolis

| Volume levels | Basic service [3] | Telephone request [3] | Forward collection only [4] | | |
|---|---|---|---|---|---|
| | | | Qualified | Qualified [5] | Premium |
| 1–2,000 | 1.65–.2.65 | 3.50 | .70 | .28 | .34 |
| 2,001–4,000 | 1.15–.1.90 | NA | .70 | .28 | .34 |
| 4,001–Over | .75–1.65 | NA | .65 | .28 | .34 |
| Regulation J Notification | 3.00/item | | | | |

St. Louis

| Volume levels | Basic service [3] | Telephone request [3] | Forward collection only [4] | |
|---|---|---|---|---|
| | | | Qualified | Qualified [5] |
| 1–500 | 2.25 | 3.50 | .60 | .20 |
| 501–1,000 | 2.00 | NA | .60 | .20 |
| 1,001–2,000 | 1.75 | NA | .60 | .20 |
| 2,501–Over | 1.25 | NA | .50 | .20 |
| Regulation J Notification | 3.00/item | | | |

*Other Services*

Minneapolis/St. Louis

| | |
|---|---|
| Support Services: | |
| Certified Checks | 50/item. |
| Facsimile Transmission | 1.50/transmission. |
| Microfiche Monthly Reports | 25.00/month. |
| Microfilm of Checks Captured | .01/item. |
| Original Item Return | 2.75/item. |
| Research | 20.00/hour. |
| Stop Payments | 5.00/stop. |
| Telephone Check Inquiry | 1.00/inquiry. |
| Signature Verification | .35/item. |
| Counter Items: | |
| With MICR Encoding | .04/item. |
| Without MICR Encoding | .10/item. |
| Photocopies/Microfilm Copies: | |
| Audit | 2.75/item. |
| | 2.75/item or 20.00/hour + .50/copy whichever is less. |
| Settlement: | |
| Daily Reporting | 25.00/month. |
| Settlement Only (Inclearings or Returns) | 100.00/month. |
| Third Party Settlement | 350.00/month. |
| Special Sorting Options: | |
| Account Separators | .003/item ($175.00 minimum). |
| Truncated Items Returned Unsorted | .002/item. |
| Truncated Items Returned Sorted | .012/item ($250.00 minimum). |
| Sequence Number Order | .005/item. |
| Other Miscellaneous Fine Sorting | .005/item. |

*Special Services*

| | |
|---|---|
| Backup Services: | |
| Set-Up Charge | 500.00–1,500 one time. |
| Monthly Maintenance | Negotiable plus actual monthly usage. |
| File Maintenance: | |
| Mergers/Acquisitions | 500.00/each. |
| Multiple R/T Numbers | 50.00/number/month. |
| Parameter File Maintenance | 25.00/change. |
| Multiple Sorter Pockets | 300.00/pocket/month. |
| Data Servicer Conversion | 500.00/conversion. |
| Minimum Monthly Charge (Excluding Actual Charges) | 250.00. |

[1] Surcharge for same day daily return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

**Des Moines Regional Center—Proof-of-Deposit (POD) Fee Schedule**

*Processing Fees*

| Monthly processing volume* | Encoding | POD capture | Inclearings capture | Account sequence sort | Exception pull/cycle sort | Rejects |
|---|---|---|---|---|---|---|
| 1–250,000 | .018 | .012 | .008 | .00600 | .00200 | .04 |
| 250,001–500,000 | .016 | .011 | .007 | .00525 | .00175 | .04 |
| 500,001–1,500,000 | .014 | .010 | .006 | .00450 | .00150 | .04 |
| 1,500,001–3,000,000 | .012 | .009 | .005 | .00375 | .00125 | .04 |
| 3,000,00–Over | .010 | .008 | .004 | .00300 | .00100 | .04 |

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

*Other Fees*

| | |
|---|---|
| Return processing and other existing ancillary, inclearing services | Available upon request. |

*Relationship Fees*

| | |
|---|---|
| Account Maintenance | $12.00 |
| Daily Statements: | |
| Via SMARTS | No Charge. |
| Paper Daily Advice (per day) | 2.50 |
| Balance Reporting—Manual | 75.00 |
| Credit Transactions | 0.35 |

| | |
|---|---|
| Debit Transactions | 0.15 |
| SMARTS Electronic Connection, Basic | No Charge. |
| Wire Transfer: | |
| Incoming | 3.00 |
| Outgoing | 4.00 |
| Internal Transfer | No Charge. |
| Collections: | |
| Bonds/Coupons Per Envelope: | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual). |
| Canadian Items | .25 |
| Foreign Collections | 25.00 (Plus Actual). |
| Food Coupons—Loose | 0.03 |
| Food Coupons—Full Straps | 0.15 |

*Clearing Fees*

| | |
|---|---|
| Deposited items | Local—$.01<br>RCPC—$.018<br>RCPC-Prem.—$.043<br>Transit—$.049 |

*Terms of Account*

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

The earnings credit rate is indexed to the Bank's yield on overnight Fed Funds for the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances, and deficient balances will be charged at the average Fed Funds rate of the current month.

**Kansas City Regional Center—Proof-of-Deposit (POD) Fee Schedule**

*Processing Fees*

| Monthly processing volume* | Encoding | POD capture | Inclearings capture | Account sequence sort | Exception pull/cycle sort | Rejects |
|---|---|---|---|---|---|---|
| 1–250,000 | .022 | .012 | .008 | .00600 | .00200 | .04 |
| 250,001–500,000 | .020 | .011 | .007 | .00525 | .00175 | .04 |
| 500,001–1,500,000 | .018 | .010 | .006 | .00450 | .00150 | .04 |
| 1,500,001–3,000,000 | .016 | .009 | .005 | .00375 | .00125 | .04 |
| 3,000,00–Over | .014 | .008 | .004 | .00300 | .00100 | .04 |

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

*Other Fees*

| | |
|---|---|
| Return processing and other existing ancillary, inclearing services | Available upon request. |

*Relationship Fees*

| | |
|---|---|
| Account Maintenance | $12.00 |
| Daily Statements: | |
| Via SMARTS | No Charge. |
| Paper Daily Advice (per day) | 2.50 |
| Balance Reporting—Manual | 75.00 |
| Credit Transactions | 0.35 |
| Debit Transactions | 0.15 |
| SMARTS Electronic Connection, Basic | No Charge. |
| Wire Transfer: | |
| Incoming | 3.00 |
| Outgoing | 4.00 |
| Internal Transfer | No Charge. |
| Collections: | |
| Bonds/Coupons Per Envelope: | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual). |
| Canadian Items | .25 |
| Foreign Collections | .25.00 (Plus Actual). |
| Food Coupons—Loose | 0.0225 |
| Food Coupons—Full Straps | 0.15 |

*Clearing Fees*

| | |
|---|---|
| Deposit Items | Local—$.01 |

Country—$.021
Transit—$.045

*Terms of Account*

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

The earnings credit rate is indexed to the Bank's yield on overnight Fed Funds for the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances, and deficient balances will be charged at the average Fed Funds rate of the current month.

**Minneapolis Regional Center—Proof-of-Deposit (POD) Fee Schedule**

*Processing Fees*

| Monthly processing volume * | Encoding | POD caputre | Inclearings capture | Account sequence sort | Exception pull cycle sort | Rejects |
|---|---|---|---|---|---|---|
| 1–250,000 | .022 | .012 | .008 | .00600 | .00200 | .04 |
| 250,001–500,000 | .020 | .011 | .007 | .00525 | .00175 | .04 |
| 500,001–1,500,000 | .018 | .010 | .006 | .00450 | .00150 | .04 |
| 1,500,001–3,000,000 | .016 | .009 | .005 | .00375 | .00125 | .04 |
| 3,000,001–Over | .014 | .008 | .004 | .00300 | .00100 | .04 |

* Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

*Other Fees*

| | |
|---|---|
| Return processing and other existing ancillary inclearing services | Available upon request. |

*Relationship Fees*

| | |
|---|---|
| Account Maintenance | $12.00 |
| Daily Statements: | |
| Via SMARTS | No Charge. |
| Paper Daily Advice (per day) | 2.50 |
| Balance Reporting—Manual | 75.00 |
| Credit Transactions | 0.35 |
| Debit Transactions | 0.15 |
| SMARTS Electronic Connection, Basic | No. Charge. |
| Wire Transfer: | |
| Incoming | 3.00 |
| Outgoing | 4.00 |
| Internal Transfer | No Charge. |
| Collections: | |
| Bonds/Coupons Per Envelope: | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual). |
| Canadian Items | .25 |
| Foreign Collections | 25.00 (Plus Actual). |
| Food Coupons—Loose | 0.04 |

*Clearing Fees*

| | |
|---|---|
| Deposited items | City—$.005<br>RCPC—$.0175<br>County—$.025<br>Transit—$.05 |

*Terms of Account*

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

The earnings credit rate is indexed to the Bank's yield on overnight Fed Funds for the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances, and deficient balances will be charged at the average Fed Funds rate of the current month.

**St. Louis Regional Center—Proof-of-Deposit (POD) Fee Schedule**

*Processing Fees*

| Monthly processing volume* | Encoding | POD capture | Inclearings capture | Account sequence sort | Exception pull cycle sort | Rejects |
|---|---|---|---|---|---|---|
| 1–250,000 | .020 | .012 | .008 | .00600 | .00200 | .04 |
| 250,001–500,000 | .018 | .011 | .007 | .00525 | .00175 | .04 |

| Monthly processing volume* | Encoding | POD capture | Inclearings capture | Account sequence sort | Exception pull cycle sort | Rejects |
|---|---|---|---|---|---|---|
| 500,001–1,500,000 | .016 | .010 | .006 | .00450 | .00150 | .04 |
| 1,500,001–3,000,000 | .014 | .009 | .005 | .00375 | .00125 | .04 |
| 3,000,001–Over | .012 | .008 | .004 | .00300 | .00100 | .04 |

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

*Other Fees*

| | |
|---|---|
| Return processing and other existing ancillary inclearing services | Available upon request. |

*Relationship Fees*

| | |
|---|---|
| Account Maintenance | $12.00 |
| Daily Statements: | |
| Via SMARTS | No Charge. |
| Paper Daily Advice (per day) | 2.50 |
| Balance Reporting—Manual | 75.00 |
| Credit Transactions | 0.35 |
| Debit Transactions | 0.15 |
| SMARTS Electronic Connection, Basic | No Charge. |
| Wire Transfer: | |
| Incoming | 3.00 |
| Outgoing | 4.00 |
| Internal Transfer | No Charge. |
| Collections: | |
| Bonds/Coupons Per Envelope: | |
| Local/Government | 5.00 |
| Out-of-Town | 7.00 |
| Domestic/Checks | 15.00 (Plus Actual). |
| Canadian Items | .25 |
| Foreign Collections | 25.00 (Plus Actual). |
| Food Coupons—Loose | 0.02 |

*Clearing Fees*

| | |
|---|---|
| Deposited items | Local—$.0075<br>RCPC—$.016<br>Country—$.015<br>Transit—$.046 |

*Terms of Account*

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

The earnings credit rate is indexed to the Bank's yield on overnight Fed Funds for the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances, and deficient balances will be charged at the average Fed Funds rate of the current month.

**Des Moines, Minneapolis, Kansas City and St. Louis Regional Centers**

*Lockbox Fee Schedule*

Basic Service

Open envelope; screen per instructions; verify payee, signature and amount. Record data on check, remittance, envelope, or correspondence as requested. Balance checks to remittances and post credits to account specified.

| | |
|---|---|
| Mortgage | $.12–.25 |
| Consumer | .09–.15 |
| Retail-Commercial | .07–.15 |
| Wholesale-Commercial | .15–.55 |
| Credit Card | .07–.15 |
| Data Capture and Transmit Includes use of derogatory file as required. Rejects pulled, balanced and returned per instructions. | .015–/.030 |
| Item Preparation Charge; Data Entry As required. Includes preparation of new or substitute machine-readable documents. | .05/item. |
| Microfilm Remittances or Checks | .01/item. |
| Credit/Posting Advice | .25/advice. |
| Photocopies: | |
| Recurring | .05/copy. |
| On Request | .25/copy. |
| Facsimile Transmissions: | |
| Recurring | .85/page. |
| On Request | 1.50/page. |
| Microfilm Copies | 2.75/copy. |

| | |
|---|---|
| Payment Discounts Calculated | .25/discount. |
| Telephone Inquiry or Notification | 1.00/call. |
| Foreign Item Processing: | |
| U.S. Dollars | .75/check. |
| Foreign Currency | 3.50/check. |
| Process Cash Payment | 5.00/each. |
| Daily Reporting | 50.00/month. |
| Courier/Postage | Actual. |
| Storage: Envelopes and remittance material retained unsorted for 14 days and destroyed Safekeeping beyond 14 days. | Negotiated. |
| Minimum Monthly Billing (Excludes Actual Charges) | 175.00 |
| New Account Set-Up | 50.00–500.00 |
| Special Services | Negotiated. |

*Statement Rendering Fee Schedule*

| | |
|---|---|
| Statements Per Month, Non-Truncated: | |
| First 5,000 | $.18 |
| Next 5,000 | .165 |
| Over 10,000 | .15 |
| Statements Per Month, Truncated | .05 |
| Statement Inserts | .01 |
| Other Mailings | .05 |
| Surcharge for One Cycle Per Month | 10% |
| Fine Sort Counter Items for Statement Insertion | .005 |
| Sort Counter Items Without MICR | .02 |
| Courier, Postage and Envelopes | Actual. |
| Pre-Sort Only | .02/item. |
| Statement Printing (Laser Printer): | |
| Customer Provider Paper | .03/page. |
| FHLB Provided Paper | .04/page. |
| Custom Forms/Logos | Actual cost. |

**Note:** Members that have changed Data Processors or have more than one MICR account number corresponding to one statement account number are subject to additional fees.

*Pricing to Forward Cycle Items to Data Processor for Statement Handling*

| | |
|---|---|
| Insertion of Trigger/Separator Tickets: | |
| Sorting | $.003/item. |
| Trigger Ticket Expense | .012/account. |
| Insertion of Rejects | .040/reject. |
| Photocopies of Missing Items | 2.75/copy. |
| Courier, Postage and Boxes | Actual. |
| Monthly fee for Special Handling | 25.00/cycle. $(75.00 minimum). |

## District. 10.—Federal Home Loan Bank of Topeka (1995 NOW/DDA Services)

Deposit Processing Fees: (All Fees Per Item Unless Other Indicated)

| Processing center | Local item | Other local | Transit | Other transit |
|---|---|---|---|---|
| Colorado | $0.015 | $0.029 | $0.040 | $.067 |
| Nebraska | 0.015 | 0.039 | 0.040 | .067 |
| Oklahoma | 0.015 | 0.038 | 0.040 | .067 |
| Kansas | 0.015 | 0.038 | 0.040 | .067 |

*Other Cash Letter*

| | |
|---|---|
| Encoding Fee | 0.023 per item. |
| Rejects on Encoded Items | 0.15 per item. |
| Returns/Redeposits | 0.80 per item. |
| Collections | 6.50 per item. |
| Coin and Currency | 2.50 per phone call. |
| Courier/Armored Car Cost | At Cost. |
| Research | 0.15 per item plus $12/hour. |
| ACH Settlement | .50 per trans. |
| Photocopy | 2.25 per item. |
| Facsimile | 1.75 per page. |
| Postage | At Cost. |

*Proof of Deposit Processing Fees: (All Fees Per Item Unless Other Indicated)*

| Items per month | Data capture | Archival | Cycle | Account sort |
|---|---|---|---|---|
| 1–50,000 | $0.011 | $0.012 | $0.009 | $0.008 |

| Items per month | Data capture | Archival | Cycle | Account sort |
|---|---|---|---|---|
| 50,001–100,000 | 0.008 | 0.012 | 0.006 | 0.008 |
| 100,001–150,000 | 0.006 | 0.010 | 0.004 | 0.006 |
| 150,001–250,000 | 0.005 | 0.010 | 0.003 | 0.006 |
| 250,001–500,000 | 0.004 | 0.010 | 0.002 | 0.006 |
| 500,001–Above | 0.004 | 0.009 | 0.002 | 0.006 |

*Inclearing Processing Fees: (All Fees Per Item Unless Other Indicated)*

| | | | | |
|---|---|---|---|---|
| 1–50,000 | $0.009 | $0.012 | $0.009 | $0.008 |
| 50,001–100,000 | 0.006 | 0.012 | 0.006 | 0.008 |
| 100,001–150,000 | 0.004 | 0.010 | 0.004 | 0.006 |
| 150,001–250,000 | 0.003 | 0.010 | 0.003 | 0.006 |
| 250,001–500,000 | 0.002 | 0.010 | 0.002 | 0.006 |
| 500,001–Above | 0.002 | 0.009 | 0.002 | 0.006 |

| Inclearing return items | City | RCPC | Country | Transit |
|---|---|---|---|---|
| Colorado | $0.19 | $0.29 | $0.35 | $0.73 |
| Kansas | 0.15 | 0.15 | 0.30 | 0.73 |
| Nebraska | 0.25 | 0.31 | 0.37 | 0.73 |
| Oklahoma | 0.16 | 0.20 | 0.22 | 0.73 |

| | |
|---|---|
| Return Item Pull | $0.86 |
| Return item Qualification | 0.25 |
| Large Item Return Notification | 3.00 |
| Settlement Only | 100.00 per month. |
| Facsimile | 1.75 |
| Postage | At cost. |
| Photocopy | 2.25 |
| Research | 0.15 plus $12 per hour. |
| Over the Counter Items | 0.03 |

*Statement Processing Fees: (All Fees Per Item Unless Other Indicated)*

| | |
|---|---|
| Truncated Statement | $0.08 per statement. |
| Imaged Statement | 0.12 per statement. |
| Cycled Statement | 0.20 per statement. |
| Per Insert | 0.01 per insert. |
| Postage | At Cost. |
| Imaged Check Printing | 0.07 per page. |
| Statement Data Printing | 0.07 per page. |
| Maintenance Fee | 250.0 per month. |

*DDA Processing Fees: (All Fees Per Item Unless Other Indicated)*

| | |
|---|---|
| Full Cycled | $0.15 |
| Full Truncated | 0.12 |
| Basic Cycled | 0.11 |
| Basic Truncated | 0.08 |
| Maintenance Fee | 25.00 per month. |
| Debit | 0.15 |
| Credit | 0.15 |
| Large Item Return Notification | 3.00 |
| Research | 0.15 plus $12 per hour. |
| Additional Statements | 2.00 |
| Photocopy | 2.25 |
| Facsimile | 1.75 |
| Postage | At Cost. |

*Lockbox Processing Fees: (All Fees Per Item Unless Other Indicated)*

| | |
|---|---|
| 1–50,000 items per month | $0.110 |
| 50,001–80,000 items per month | 0.105 |
| 80,001–120,000 items per month | 0.100 |
| 120,001–160,000 items per month | 0.095 |
| 160,001–above items per month | 0.090 |
| Processing Fee | 100.00 per month. |
| Exception Items | 0.07 |
| Photocopy | 2.25 |

| | |
|---|---|
| Facsimile | 1.75 |
| Postage | At Cost. |

**District 11.—Federal Home Loan Bank of San Francisco (1995 NOW/DDA Services)**

(Does not provide item processing services for third party accounts)

**District 12.—Federal Home Loan Bank of Seattle (1995 NOW/DDA Services)**

(Does not provide item processing services for third party accounts)

By the Federal Housing Finance Board.

**Rita I. Fair,**

*Managing Director.*

[FR Doc. 95–12930 Filed 5–26–95; 8:45 am]

BILLING CODE 6725–01–M

## FEDERAL RESERVE SYSTEM

### Aspen Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than June 23, 1995.

**A. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198

*1. Aspen Bancshares, Inc.*, Aspen, Colorado; to acquire 100 percent of the voting shares of Val Cor Bancorporation, Inc., Cortez, Colorado, and thereby indirectly acquire Valley National Bank, Cortez, Colorado.

Board of Governors of the Federal Reserve System, May 23, 1995.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 95–13106 Filed 5–26–95; 8:45 am]

BILLING CODE 6210–01–F

### First Dakota Financial Corporation Employee Stock Ownership Plan; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-11228) published on page 22580 of the issue for Monday, May 8, 1995.

Under the Federal Reserve Bank of Minneapolis heading, the entry for First Dakota Financial Corporation Employee Stock Ownership Plan, is revised to read as follows:

*1. First Dakota Financial Corporation Employee Stock Ownership Plan*, Yankton, South Dakota; to become a bank holding company by acquiring 26.08 percent of the voting shares of First Dakota Financial Corporation, Yankton, South Dakota.

Comments on this application must be received by June 1, 1995.

Board of Governors of the Federal Reserve System, May 23, 1995.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 95-13107 Filed 5–26-95; 8:45 am]

BILLING CODE 6210-01-F

### The First National Company, Storm Lake, Iowa; Notice to Engage in Certain Nonbanking Activities

The First National Company, Storm Lake, Iowa (Applicant), has given notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and section 225.23 of the Board's Regulation Y (12 CFR 225.23), to indirectly acquire Buena Vista Abstracting, Storm Lake, Iowa, and thereby engage in real estate title abstracting. Real estate title abstracting includes the reporting of information on the interests or ownership of selected real property. Applicant would obtain information from public records and prepare a written report reciting the property's ownership history, including any liens held against such property. The report would assist lenders and their counsel in determining the status of the property to be mortgaged. In connection with this activity, Applicant would not provide any insurance against title defects, guarantee any title, or provide any certification with respect to a title. Applicant seeks approval to conduct the proposed activities throughout Buena Vista County, Iowa.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity ''which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.'' In determining whether a proposed activity is closely related to banking for purposes of the BHC Act, the Board considers, *inter alia*, the matters set forth in *National Courier Ass.* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975). These considerations are (1) Whether banks generally have in fact provided the proposed services, (2) whether banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed services, and (3) whether banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. *See* 516 F.2d at 1237. In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. *Board Statement Regarding Regulation Y*, 49 Fed. Reg. 806 (1984).

Applicant indicates that the proposed real estate title abstracting activities are incidental to the business of lending and consistent with the provision of real estate settlement services previously approved by the Board. *See e.g.*, *Norwest Corporation*, 76 Federal Reserve Bulletin 1058 (1990). Because Applicant would not provide any insurance against title defects or

guarantee any title, Applicant argues that the proposed activities are not the equivalent of title insurance.

In order to approve the proposal, the Board must determine that the proposed activities ''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.'' 12 U.S.C. 1843(c)(8).

Applicant believes that the proposed activities would produce public benefits that outweigh any potential adverse effects. These public benefits include more accurate and faster preparation of abstracts and lower costs. In addition, Applicant indicates that the proposed activities would not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the notice, and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 13, 1995. Any request for a hearing on this proposal must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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. The notice may be inspected at the offices of the Board of Governors, the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, May 23, 1995.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 95–13108 Filed 5–26–95; 8:45 am]

BILLING CODE 6210–01–F

## GOVERNMENT PRINTING OFFICE

### The ''Federal Register'' Online Via GPO Access; Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the ''Federal Register'' and Other Federal Databases

The Superintendent of Documents will hold a public meeting for Federal, state and local government agencies, and any others interested in an overview and demonstration of the Government Printing Office's online service, *GPO Access*, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 103–40).

Sessions will be held at the University of Illinois at Chicago, the Chicago Illini Union, Chicago Room A, 828 South Walcott, Chicago, Illinois, on Monday, June 26, from 9 a.m. to 10:30 a.m. and 11 a.m. to 12:30 p.m. There is no charge to attend.

The online **Federal Register** Service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day of publication. All notices, rules and proposed rules, Presidential documents, executed orders, separate parts, and reader aids are included in the database as ASCII text files and as Adobe Acrobat Portable Document Format (PDF) files, with graphics provided in TIFF format. The online **Federal Register** is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through *GPO Access* include the Congressional Record; Congressional Record Index, including the History of Bills; Congressional Bills; Public Laws; U.S. Code; and GAO Reports.

Individuals interested in attending may reserve a space by contacting John Berger, Product Manager at the GPO's Office of Electronic Information Dissemination Services, by telephone: 202–512–1525; by fax: 202–512–1262; or by Internet e-mail at john@eids05.eids.gpo.gov. Seating reservations will be accepted through Wednesday, June 21, 1995.

**Michael F. DiMario,**

*Public Printer.*

[FR Doc. 95–13166 Filed 5–26–95; 8:45 am]

BILLING CODE 1505–02–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Announcement 558]**

### Center for Agricultural Disease and Injury Research, Education, and Prevention

#### Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program with universities or university-affiliated medical centers for the establishment of a Center for Agricultural Disease and Injury Research, Education, and Prevention. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see Section **WHERE TO OBTAIN ADDITIONAL INFORMATION**.)

#### Authority

This program is authorized under Sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669 (a) and 671(e)(7)).

#### Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Pub .L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

#### Eligible Applicants

Eligible applicants include State and private universities and university-affiliated, not-for-profit medical centers within the United States (U.S.). The restriction of eligible applicants is due to the FY 1990 appropriations language which initiated this program and States that centers for agricultural occupational safety and health will be established at universities. Because of programmatic and regional differences throughout agriculture in the U.S., only one center will be established in any Department of Health and Human Services (DHHS) region. Currently, there are centers in DHHS Regions II, IV, V,

VII, VIII and IX. Region II is now providing coverage for Regions I and III, thereby leaving Regions VI and X without coverage. Migrant populations are being targeted for this intervention program because they are one of the most under-served populations among agriculture workers. Therefore, the regional emphasis for this announcement is limited to DHHS Region VI, which is a major point of entry for the migrant stream. Region VI includes the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

**Availability of Funds**

Approximately $500,000 will be available in FY 1995 to fund one new center. It is expected that the award will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

**Purpose**

This cooperative agreement program will significantly strengthen the occupational public health infrastructure by integrating resources for occupational safety and health research and public health prevention programs at the State and local levels. It is designed to address the research, education, and intervention activities that are unique to agriculture in the Region. To achieve this objective, the program will establish a center for agricultural disease and injury research, education, and prevention. The program objectives are as follows:

1. Develop and conduct research related to the prevention of occupational disease and injury of agricultural workers and their families, with emphasis on migrant/seasonal workers, women and children, and ranchers.

2. Develop and implement model educational, outreach, and intervention programs promoting agricultural health and safety for agricultural workers and their families, including bilingual materials and multi-media presentations.

3. Develop and implement model programs for the prevention of illness and injury among agricultural workers and their families.

4. Develop and implement a pilot sentinel-event surveillance program within the Region through public health nurses.

5. Evaluate agricultural injury and disease prevention and educational materials and programs implemented by the Center.

6. Provide consultation and/or training to researchers, health and safety professionals, graduate/professional students, and agricultural extension agents and others in a position to improve the health and safety of agricultural workers.

**Program Requirements**

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting activities under A. (Recipient Activities) below, and CDC/NIOSH will be responsible for conducting activities under B. (CDC/NIOSH Activities) below:

*A. Recipient Activities*

1. Develop and conduct applied research related to the prevention of occupational disease and injury in agricultural workers and their families, with emphasis on migrant/seasonal workers, women and children, and ranchers.

2. Develop and conduct education, training, outreach and intervention programs promoting agricultural health and safety. Target audiences should include agricultural workers and their families, extension/outreach personnel, and personnel in graduate/professional education programs that are specializing in agricultural health. The program should include bilingual materials and multi-media presentations.

3. Develop and implement a pilot program for a sentinel-event surveillance program within the Region through public health nurses.

4. Develop a research protocol(s) for the center for agricultural disease and injury research, education, and prevention. Obtain peer review of the protocol and revise and finalize it as required for final approval by CDC/NIOSH.

5. Where appropriate, collaborate with NIOSH and other CDC scientists on complementary research areas.

6. Assist in reporting and disseminating research results and relevant health and safety education and training information to appropriate Federal, State, and local agencies, health care providers, the scientific community, agricultural workers and their families, management and union or other worker representatives, and other CDC/NIOSH centers for agricultural disease and injury research, education, and prevention.

7. Develop and utilize an evaluation scheme for research, education/training, and outreach/intervention activities.

*B. CDC/NIOSH Activities*

1. Provide technical assistance through site visits and correspondence in the areas of program development, implementation, maintenance, and priority setting related to the cooperative agreement.

2. Provide scientific collaboration where needed.

3. Assist in the reporting and dissemination of research results and relevant health and safety education and training information to appropriate Federal, State, and local agencies, health-care providers, the scientific community, agricultural workers and their families, management and union representatives, and other CDC/NIOSH centers for agricultural disease and injury research, education, and prevention.

*Evaluation Criteria*

Applications will be reviewed and evaluated according to the following criteria:

1. Responsiveness to the objectives of the cooperative agreement program, including the applicant's understanding of the objectives of the proposed cooperative agreement and the relevance of the proposal to the objectives. (20%)

2. Feasibility of meeting the proposed goals of the cooperative agreement program including the proposed schedule for initiating and accomplishing each of the activities of the cooperative agreement and the proposed method for evaluating the accomplishments. (20%)

3. Strength of the program design in addressing the distinct characteristics, specific populations, and needs in agricultural research and education for the region. (20%)

4. Strength of the proposed program for agricultural health and safety in the areas of prevention, research, education, and multi-disciplinary approach. (10%)

5. Efficiency of resources and novelty of program. This includes the efficient use of existing and proposed personnel with assurances of a major time commitment of the Project Director to the program and the novelty of program approach. (15%)

6. Training and experience of proposed Program Director and staff, including a Program Director who is a distinguished scientist and technical expert and staff with training or experience sufficient to accomplish proposed program. (15%)

7. The extent to which the program budget is reasonable, clearly justified, and consistent with the intended use of funds. (Not Scored)

**Funding Priority**

The regional emphasis for this announcement is limited to DHHS Region VI. Therefore, applications will be accepted from only those States within the region: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Interested persons are invited to comment on the proposed funding priority. Comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priority is established. If the funding priority should change as a result of any comments received, a revised announcement will be published in the **Federal Register**, and revised applications will be accepted prior to final selection of awards.

Written comments should be addressed to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305.

**Executive Order 12372 Review**

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit.

If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application deadline date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

**Public Health System Reporting Requirements**

This program is not subject to the Public Health System Reporting Requirements.

**Catalog of Federal Domestic Assistance Number**

The Catalog of Federal Domestic Assistance Number for this program is 93.262.

**Other Requirements**

*Paperwork Reduction Act*

Projects funded through the cooperative agreement mechanism of this program involving the collection of information from 10 or more individuals will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

*Human Subjects*

If the proposed project involves research on human subjects, the applicant must comply with the DHHS Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

**Application Submission and Deadline**

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before June 30, 1995.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings.

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

**Where To Obtain Additional Information**

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 558. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546.

Programmatic technical assistance may be obtained from Dr. Stephen A. Olenchock, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1095 Willowdale Road, Morgantown, WVA 26505–2888, telephone (304) 285–5847.

Please refer to announcement 558 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 23, 1995.

**Diane D. Porter**

*Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13111 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–19–P

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**[Announcement 555]**

## Promoting Health Among the Nation's Health-Care Workers by Implementing Employee-Management Advisory Committees

**Introduction**

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program to conduct a demonstration project on the effectiveness of using participatory task forces for reducing risk of injury and implementing workplace improvements in health-care

facilities. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000 see the Section Where to Obtain Additional Information.)

**Authority**

This program is authorized under sections 20(a) and 22(e)(7) of the Occupational Safety and Health Act (29 U.S.C. 669 (a) and 671(e)(7)).

**Smoke-Free Workplace**

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

**Eligible Applicants**

Applications may be submitted by public and private, non-profit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

**Availability of Funds**

Approximately $135,000 is available in FY 1995 to fund one or more cooperative agreements. If awards for multiple cooperative agreements are made, it is expected the awards will range from $40,000 to $80,000. If a single award is made, the award will be approximately $135,000. The awards are expected to begin on or before September 30, 1995, for a 12-month budget period within a project period of one to two years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

**Purpose**

The purpose of this cooperative agreement is to support one or more demonstration studies to evaluate the effectiveness of ''participatory task forces'' in the health-care industry.

A participatory approach, using ''employee-management advisory teams'' (E-MATs), has been shown to provide an effective and practical way to identify and solve occupational safety and health problems in industrial settings. (For ordering a copy of Participatory Ergonomic Interventions in Meatpacking Plants see the Section Where to Obtain Additional Information.)

Teams established as true labor-management partnerships have been successful in industrial settings because they take advantage of the skills, knowledge, motivation, and communication networks already available in the workforce. In health-care settings, the workforce has the additional advantage of being highly knowledgeable and sensitive to health and safety problems, but they have not had sufficient opportunity to provide input in problem-solving. Because E–MATs are based on employee participation and partnership, they foster a proactive approach to workplace health and safety. E–MATs established in the automotive industry, for example, have been successful in: (1) Conducting ongoing surveillance of health and safety problems; (2) exploring avenues to abatement of such problems; and (3) identifying control technology and training needs to prevent additional problems.

This cooperative agreement will provide the first opportunity in the health-care industry to evaluate the effectiveness of the ''participatory task-force,'' (i.e., E–MAT model). This model can serve as a means for enhancing awareness by employees and management of the hazards and health risks in the health-care industry, while ensuring sustained and active programs of prevention and control.

**Program Requirements**

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for conducting activities under B. (CDC/NIOSH Activities).

*A. Recipient Activities*

1. Secure and sustain a formal relationship with the management of a health-care facility and its worker representatives which will serve to assure the commitment for the recipient of both management and staff for the project period.

2. Plan and implement a demonstration project to evaluate the E–MAT model of the participatory task force. The intent should be to use principles of organizational change that incorporate employee participation. The project should include the following elements:

a. *Targeting one or more occupational hazards that exist within the facility that are amenable for intervention.* The hazards selected will be those which have a known high risk of injury or illnesses, such as manual lifting of patients, slips and falls, excessive overtime and night work.

b. *Establishing the participatory task-force teams (E–MATs).* The teams should comprise technical and non-technical staff and supervisors from the selected job area and other facility personnel such as engineering, management, and medical staff, as appropriate.

c. *Training the team members to recognize safety and health risks.* Introduce safety, health, and ergonomic concepts that enable the team to recognize environmental hazards, recognize risk factors, analyze tasks, and refine and implement controls.

d. *Developing controls.* The recipient will conduct, with the full participation of team members, the development of engineering, work practice, and/or administrative controls to reduce safety, health, and ergonomic hazards associated with the selected jobs and hazards.

e. *Implementing controls.* The recipient will provide technical support to the teams to ensure proper implementation of the controls.

**Note:** Cooperative agreement funds are not available to be spent by the health-care facility for implementing the controls.

3. Monitor and evaluate the success of the team approach. Measures of team success may include effectiveness of implemented controls, whether the team activity is continued, and whether controls are sustained and improved.

4. Develop a written case study report of the effectiveness of the E–MAT model of the participatory team approach in the health-care industry for effecting and sustaining reductions in occupational hazards.

*B. CDC/NIOSH Activities*

1. Provide technical information and support concerning the implementation of the E–MAT model of the participatory team approach.

2. Provide technical assistance in at least the following areas:

a. Choice of the hazard or series of hazards for the interventions.

b. Development of E–MAT awareness training.

c. Development of engineering and/or organizational controls.

d. Development of measures for project success.

e. Development of a case study report.

**Evaluation Criteria**

Applications will be reviewed and evaluated according to the following criteria:

1. Understanding of health, safety, and ergonomic problems of health-care facilities and understanding of participatory task force interventions. (15%)

2. Ability to provide the staff, knowledge and other resources and experience to carry out the project. The staff is competent and experienced in the skills required in the scope of work. Resumes of staff should reflect not only academic qualifications but also length and variety of experience with similar tasks. (15%)

3. Commitment to a participatory-team approach to implement improvements and is representative of at least one sector of the health-care industry. (30%)

4. Extent description is provided of approach or goals consistent with the activities or suggestion of alternative approaches to achieve the same purpose. Extent to which application outlines reasonable approaches for identifying hazards in the facility, participatory team building and training, and control development, implementation, and refinement. (30%)

5. Extent proposed schedule is reasonable and consistent with the proposed approach. Specify how the project will be administered, and the name of the individual who will be responsible for its day-to-day administration. (10%)

6. Extent to which a detailed budget is provided which indicates anticipated costs for staff, equipment, facilities, travel, supplies, and all sources of funds to meet those needs. (Not Scored.)

**Executive Order 12372 Review**

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. Executive Order 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. Indian tribes are strongly encouraged to request tribal government review of the proposed application. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit.

If SPOCs or Indian tribal governments have any State process recommendations on applications submitted to the CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' for State or tribal process recommendations it receives after that date.

**Public Health System Reporting Requirements**

This program is subject to the Public Health System Reporting Requirements.

**Catalog of Federal Domestic Assistance Number**

The Catalog of Federal Domestic Assistance Number for this program is 93.956.

**Other Requirements**

*Paperwork Reduction Act*

Projects that involve the collection of information from ten or more individuals and funded by this cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

*Human Subjects*

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

**Application Submission and Deadline**

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before July 5, 1995.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applicants: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

**Where to Obtain Additional Information**

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number, and will need to refer to Announcement 555. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546.

Programmatic technical assistance may be obtained from Vern Putz-Anderson, Ph.D., Chief, Psychophysiology and Biomechanics Section, Applied Psychology and Ergonomics Branch, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), Mailstop C–24, 4676 Columbia Parkway, Cincinnati, Ohio 45226–1998, telephone (513) 533–8291. Additional technical

assistance may be obtained from Drs. Michael Colligan and Ray Sinclair (at the same address), telephone (513) 533–8225.

Please refer to Announcement 555 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction Section through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

A copy of Participatory Ergonomics Interventions in Meatpacking Plants, (DHHS/NIOSH) Publication No. 94–124, referenced in the Purpose Section, can be obtained from the Publication Dissemination office of CDC/NIOSH, Cincinnati, OH 45226, telephone (513) 533–8573.

Dated: May 23, 1995.

**Diane D. Porter,**

*Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13110 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–19–P

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**[Announcement 556]**

## Work Organization Interventions to Prevent Work-Related Musculoskeletal Disorders in Office and Video Display Terminal Work

### Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program to develop work organization interventions to prevent musculoskeletal disorders in office and video display terminal (VDT) workers. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

### Authority

This program is authorized under sections 20 (a) and 22(e)(7) of the Occupational Safety and Health Act (29 U.S.C. 669(a) and 671(e)(7)).

### Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

### Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations and governments, and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority-, and/or women-owned businesses are eligible to apply.

### Availability of Funds

Approximately $140,000 is available in FY 1995 to fund one award. It is expected that the award will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of one to two years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

### Purpose

The purpose of this cooperative agreement is to utilize the special resources of the extramural research community to conduct studies, in cooperation with CDC/NIOSH, to demonstrate the effectiveness of work organization interventions in reducing work- related musculoskeletal disorders (WRMD), and in improving productivity, among VDT workers. The funded project will focus on worksite primary prevention efforts, replicating and extending the CDC/NIOSH interventions. This could include: (a) Replication/validation of CDC/NIOSH findings on work-rest schedules and task rotation, (b) extension of these interventions to other types of VDT and office tasks, and (c) examination of other types of work organization interventions.

Prior studies have indicated that some types of VDT jobs may pose higher risk for stress and WRMDs, particularly jobs involving highly repetitive and narrow tasks (e.g., data entry or teleoperator tasks). Such jobs are of particular interest for this project. Both physical and psychological symptoms will be evaluated. Project results, in combination with NIOSH findings, will provide the basis for recommendations regarding effective work organization strategies for reducing WRMDs, and improving performance in repetitive VDT work. Project results will also improve our understanding of mechanisms mediating between work organization variables and musculoskeletal disorders in VDT work.

### Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A.(Recipient Activities) and CDC/NIOSH will be responsible for activities under B.(CDC/NIOSH Activities).

*A. Recipient Activities*

1. Identify suitable study site(s); i.e., with large, stable populations of workers performing repetitive VDT work. Secure cooperation of management and labor representatives at the site(s) to participate in an intervention study.

2. Develop a study protocol that reviews the pertinent literature on VDT-related musculoskeletal disorders and work organization, describes the study methodology, the data to be collected, and the proposed analysis of the data. Present the protocol to a panel of peer reviewers and revise the protocol as required for final approval.

3. Prepare necessary documentation for reviews and/or clearances required by PHS/CDC/NIOSH.

4. Perform data collection and management. Data is to include measures of worker symptomatology and performance and can additionally include records data on factors such as absenteeism, health care utilization, etc. Symptomatology can include musculoskeletal discomfort, upper extremity musculoskeletal disorders, and indicators of negative mental health (e.g., depression, anxiety, tension). Performance indicators can include measures such as keystrokes/hour, forms/hour, and errors.

5. Prepare a final report summarizing the study methodology, results obtained, and conclusions reached. Develop recommendations regarding effective work organization interventions to reduce stress, fatigue, and WRMDs among VDT workers.

6. Report study results to the scientific community via presentations at professional conferences and articles in peer-reviewed journals.

*B. CDC/NIOSH Activities*

1. Provide scientific, epidemiologic, work organization, ergonomic, and medical collaboration for the successful completion of this project.

2. Identify reviews and/or clearances that must be fulfilled by the recipient, and identify and convene a Peer Review Panel to review draft study protocol.

3. Provide assistance in all stages of the study including study design, survey instrument design, the collection, tabulation, and analysis of data, interpretation of the results and preparation of the written reports.

4. Provide instrumentation and resources to investigate physiological mechanisms in VDT WRMDs.

**Evaluation Criteria**

The application will be reviewed and evaluated according to the following criteria:

1. Understanding of the Problem (25%)

Responsiveness to the objective of the cooperative agreement including: (a) Applicant's understanding of the general objectives of the proposed cooperative agreement, and (b) evidence of ability to understand the problem and to conceive/design effective interventions.

2. Program Personnel (30%)

(a) Applicant's technical experience (e.g., in the areas of work organization, WRMDs and office and VDT ergonomics); (b) the qualifications (e.g., in the areas of industrial engineering, psychology and occupational safety and health) and time allocation of the professional staff to be assigned to this project, and (c) the applicant's ability to describe the approach to be used in carrying out the responsibilities of the applicant in this project.

3. Study Design (20%)

Steps proposed in planning and implementing this project and the respective responsibilities of the applicant for carrying out those steps. Also, the adequacy of the applicant's evidence of access to study populations.

4. Project Planning (15%)

The applicant's schedule proposed for accomplishing the activities to be carried out in this project and for evaluating the accomplishments.

5. Facilities and Resources (10%)

The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project.

6. Budget Justification (not scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

**Executive Order 12372 Review**

This program is not subject to the Executive Order 12372 review.

**Public Health System Reporting Requirements**

This program is not subject to the Public Health System Reporting Requirements.

**Catalog of Federal Domestic Assistance Number**

The Catalog of Federal Domestic Assistance number for this project is 93.283.

**Other Requirements**

*Paperwork Reduction Act*

Projects that involve the collection of information from ten or more individuals and funded by this cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

*Human Subjects*

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

**Application Submission and Deadline**

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before June 30, 1995.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applicants: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

**Where To Obtain Additional Information**

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546.

Programmatic technical assistance may be obtained from Naomi G. Swanson, Ph.D., Chief, Motivation and Stress Research Section, Applied Psychology and Ergonomics Branch, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), Mailstop C–24, 4676 Columbia Parkway, Cincinnati, OH 45226–1998, telephone (513) 533–8291, FAX (513) 533–8510.

Please refer to Announcement 556 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction Section through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 23, 1995.

**Diane D. Porter,**

*Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13109 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–19–P

## Advisory Committee to the Director, Centers for Disease Control and Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

*Name:* Advisory Committee to the Director, CDC.

*Time and Date:* 8:30 a.m.–3 p.m., June 23, 1995.

*Place:* CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

*Status:* Open to the public, limited only by the space available.

*Purpose:* This committee advises the Director, CDC, on policy issues and broad strategies that will enable CDC, the Nation's prevention agency, to fulfill its mission of promoting health and quality of life by preventing and controlling disease, injury, and disability. The committee recommends ways to incorporate prevention activities more fully into health care. It also provides guidance to help CDC work more effectively with its various constituents, in both the private and public sectors, to make prevention a practical reality.

*Matters To Be Discussed:* The agenda will include updates from CDC Director, David Satcher, M.D., Ph.D., followed by committee discussion on CDC's evolving relationship with managed care and major challenges to public health science and to CDC programs.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Martha F. Katz, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, Mailstop D–23, Atlanta, Georgia 30333, telephone 404/639–3243.

Dated: May 23, 1995.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13122 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–18–M

## Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

*Name:* Advisory Committee for Injury Prevention and Control (ACIPC).

*Times and Dates:* 1 p.m.–4 p.m., July 10, 1995; 8:30 a.m.–3:15 p.m., July 11, 1995.

*Place:* Atlanta Airport Hilton and Towers, 1031 Virginia Avenue, Atlanta, Georgia 30354.

*Status:* Closed 1 p.m.–4 p.m., July 10, and 8:30 a.m.–9 a.m., July 11; Open 9 a.m.–3:15 p.m., July 11.

*Purpose:* The committee will continue to make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the implementation of a national plan for injury prevention and control, the development of new technologies and their application; and review progress toward injury prevention and control.

**Matters to be Discussed**

The meeting will convene in closed session from 1 p.m. to 4 p.m. on July 10, 1995. The purpose of this closed session is for the Science and Program Review Work Group to consider injury control research grant applications recommended for further consideration by CDC's Injury Research Grant Review Committee. On July 11, 1995, from 8:30 a.m. to 9 a.m., the meeting will convene in closed session in order for the full committee to vote on a funding recommendation. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant Pub. L. 92–463. Following the closed sessions, the committee will discuss (1) an update from the Director, National Center for Injury Prevention and Control (NCIPC), (2) updates on injury issues form other Federal agencies, (3) overview of the Consumer Product Safety Commission, (4) issues in traumatic brain injury, and (5) a report from the ad hoc work group.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Mr. Tom Bartenfeld, Acting Executive Secretary, ACIPC, NCIPC, Mailstop K–60, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–4690.

Dated: May 23, 1995.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13170 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–18–M

## Savannah River Site Environmental Dose Reconstruction Project: Public Meetings

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC), the Agency for Toxic Substances and Disease Registry (ATSDR), and the Radiological Assessments Corporation announce the following meetings.

*Name:* Savannah River Site Environmental Dose Reconstruction Project.

*Date:* Tuesday, June 27, 1995—Wednesday, June 28, 1995

*Time:* 7 p.m.–9 p.m.—7 p.m.–9 p.m.

*Place:* Holiday Inn Coliseum at the University of South Carolina, 630 Assembly Street, Columbia, South Carolina 29201—Radisson Riverfront Augusta Hotel, Two Tenth Street, Augusta, Georgia 30901.

*Date:* Thursday, June 29, 1995

*Time:* 7 p.m.–9 p.m.

*Place:* Savannah DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia 31401

*Status:* Open to the public for observation and comment, limited only by the space available. Seating space for 50 individuals will be available at each meeting.

*Background:* Under a Memorandum of Understanding (MOU) signed in December 1990 with the Department of Energy (DOE), the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Community involvement is a critical part of the HHS energy-related research and activities. With an environmental dose reconstruction for DOE's Savannah River Site (SRS) near Augusta, Georgia, as well as a worker study at the same site, the availability of a formal site-specific advisory committee composed of citizens of the communities surrounding the DOE sites is necessary to provide consensus advice regarding these projects. On December 1, 1994, the ''Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites'' was chartered. This charter is in response to the requests by representatives of the communities surrounding DOE sites to provide consensus advice and recommendations on community concerns related to CDC's and ATSDR's activities related to the sites. Committee members will be representatives of the concerned and affected community, Native American Tribes,

and labor; they shall bring valuable experiential qualifications and scientific/technical knowledge.

The purpose of these public meetings is to provide a final update on the completion of Phase I: Data Assessment and Retrieval for the SRS Dose Reconstruction Study. The objective of Phase I is to locate, evaluate, and catalog historical records that can be used to reconstruct contaminant releases and public exposures from the SRS. Phase I will be completed on June 30, 1995. Meeting agenda items will include: review of the key records found in both classified and unclassified repositories; summaries of task reports; a demonstration of the final computerized database; updates on the proposed SRS Health Effects Subcommittee and the SRS Phase II Contract; and public comments and suggestions.

Agenda items are identical for each meeting, and subject to change as priorities dictate.

*Contact Persons for a copy of the Charter or More Information:* Paul G. Renard or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway, NE, MailStop F–35, Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: May 23, 1995.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 95–13123 Filed 5–26–95; 8:45 am]

BILLING CODE 4163–18–M

## National Institutes of Health

### National Center for Human Genome Research; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

*Name of Committee:* Genome Research Review Committee

*Date:* June 27 and 28, 1995

*Time:* Tuesday, June 27, 8:30 to recess; Wednesday, June 28, 8:30 to adjournment

*Place:* Embassy Suites Hotel, Chevy Chase Pavilion, Washington, D.C.

*Contact Person:* Ms. Linda Engel, Chief, Office of Scientific Review, National Center for Human Genome Research, National Institutes of Health, Building 38A, Room 604, Bethesda, Maryland 20892, (301) 402–0838

*Purpose/Agenda:* To review and evaluate grant applications and/or contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Discussions, applications, and/or contract proposals could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13047 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

### National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

*Name of SEP:* Behavioral Interventions for Control of Tuberculosis.

*Date:* June 12–13, 1995.

*Time:* 9:00 a.m.

*Place:* Holiday Inn, Chevy Chase, Maryland.

*Contact Person:* Louise Corman, Ph.D., 6701 Rockledge Drive, Room 7180, Bethesda, Maryland 20892–7924, (301) 435–0270.

*Purpose/Agenda:* To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: May 18, 1995.

**Susan K. Feldman,**

*Committee Management Officer, NIH.*

[FR Doc. 95–13048 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

### National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meetings:

*Name of IRG:* Heart, Lung, and Blood Program Project Review Committee

*Date:* June 22, 1995

*Time:* 8:00 a.m.

*Place:* Holiday Inn, Chevy Chase, Maryland

*Contact Person:* Dr. Jeffrey H. Hurst, 6701 Rockledge Drive, Room 7208, Bethesda, Maryland 20892–7924,(301) 435–0303

*Purpose/Agenda:* To review and evaluate grant applications.

*Name of IRG:* Research Training Review Committee

*Date:* June 25–27, 1995

*Time: 7:30 p.m.*

*Place:* Hyatt Regency, Bethesda, Maryland

*Contact Person:* Dr. Kathryn Ballard, 6701 Rockledge Drive Room 7194, Bethesda, Maryland 20892–7924, (301) 435–0288

*Purpose/Agenda:* To review and evaluate grant applications.

*Name of IRG:* Clinical Trials Review Committee

*Date:* June 25–27, 1995

*Time:* 7:00 p.m.

*Place:* Hyatt Regency, Bethesda, Maryland

*Contact Person:* Dr. David M. Monsees, 6701 Rockledge Drive, Room 7178, Bethesda, Maryland 20892–7924, (301) 435–0270

*Purpose/Agenda:* To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sec. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13049 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

### National Institute of Dental Research; Notice of a Meeting of the National Advisory Dental Research Council and its Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research and its subcommittee, on June 13–14, 1995. The meeting of the full Council will be open to the public on June 13 from 10:00 a.m. to recess, Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland, for general discussion and program presentations. The Subcommittee on Minority Activities meeting will be open to the public on June 13 from 8:45 a.m. to approximately 9:45 a.m., Conference Room 7, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on June 13, 8 a.m

to 8:45 a.m. and on June 14, 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications and for the discussion, review and evaluation of the Board of Scientific Counselors' report. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and reports, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Lois K. Cohen, Executive Secretary, National Advisory Dental Research Council, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892, (telephone (301) 496–9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13050 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

## National Institute of General Medical Sciences; Notice of Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following advisory committee meetings of the National Institute of General Medical Sciences.

These meetings will be open to the public as indicated below with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AS–43, Bethesda, Maryland 20892, (301) 495–7031, in advance of the meeting.

Mrs. Dieffenbach will provide a summary of each meeting and a roster of committee members upon request. Substantive program information may be obtained from the contact listed below:

*Committee Name:* Minority Access to Research Careers Review Subcommittee, Minority Programs Review Committee
*Meeting Date:* June 15–16, 1995
*Place:* 45 Center Drive, Conference Room C, Bethesda, MD 20892–6200
*Open:* June 15, 8:30 a.m.–9:30 a.m.
*Agenda:* Special reports related to committee activities
*Closed:* June 15, 9:30 a.m.–5 p.m.; June 16, 8:30 a.m.—adjournment
*Agenda:* Review and evaluation of grant applications
*Contact:* Dr. Richard Martinez, Scientific Review Admin., Building 45, Room 1AS–19G, National Institutes of Health, Bethesda, MD 20892, Telephone (301) 594–2849.

*Committee Name:* Minority Biomedical Research Support Review Subcommittee, Minority Programs Review Committee
*Meeting Date:* July 15–16, 1995
*Place:* Holiday Inn Chevy Chase, 5522 Wisconsin Avenue, Chevy Chase, MD 20815
*Open:* July 15, 8:30 a.m.–9:30 a.m.
*Agenda:* Special reports related to committee activities
*Closed:* July 15, 9:30 a.m.–5 p.m.; July 16, 8:30 a.m.—adjournment
*Agenda:* Review and evaluation of grant applications
*Contact:* Dr. Michael Sesma, Building 45, Room 1AS–19H, National Institutes of Health, Bethesda, MD 20892, Telephone (301) 594–2048.

These meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal property.

(Catalog of Federal Domestic Assistance Program No. 93.859, 93.862, 93.863, 93.880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13052 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

## National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

*Name of Committee:* Nursing Science Review Committee.
*Date:* June 22–23, 1995.
*Time:* 8:30 a.m. until adjournment.
*Place:* Holiday Inn Chevy Chase, Palladian West Conference Room, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.
*Contact Person:* Dr. Mary Stephens-Frazier, 9000 Rockville Pike, Building 45, Room 3An.12, Bethesda, Maryland 20892, (301) 594–5971.
*Purpose:* To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13051 Filed 5–26–95; 8:45 am]

BILLING CODE 4140–01–M

## Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

*Purpose/Agenda:* To review individual grant applications
*Name of SEP:* Multidisciplinary Sciences
*Date:* June 14–16, 1995
*Time:* 6:00 p.m.
*Place:* Chapel Hill, NC
*Contact Person:* Dr. Bill Bunnag, Scientific Review Admin., 6701 Rockledge Drive, Room 5212, Bethesda, MD 20892, (301) 594–7360

*Name of SEP:* Behavioral and Neurosciences
*Date:* June 15, 1995
*Time:* 7:30 a.m.
*Place:* Georgetown Inn, Washington, DC
*Contact Person:* Dr. Carol Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, MD 20892, (301) 594–7311

*Name of SEP:* Multidisciplinary Sciences
*Date:* June 23, 1995
*Time:* 8:00 a.m.
*Place:* Ramada Inn, Bethesda, MD
*Contact Person:* Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, MD 20892, (301) 594–7053

*Purpose/Agenda:* To review Small Business Innovation Research Program grant applications
*Name of SEP:* Multidisciplinary Sciences
*Date:* June 19–21, 1995
*Time:* 7:00 a.m.
*Place:* Bethesda Marriott Hotel, Bethesda, MD
*Contact Person:* Dr. Nabeeh Mourad, Scientific Review Admin., 6701 Rockledge

Drive, Room 5110, Bethesda, MD 20892, (301) 594–7213

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.383–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 18, 1995.

**Anna Snouffer,**

*Committee Management Specialist, NIH.*

[FR Doc. 95–13053 Filed 5–26–95; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Fair Housing and Equal Opportunity

**[Docket No. N–95–3901; FR–3878–N–02]**

### NOFA for Fair Housing Initiatives Program; FY 1995 Competitive Solicitation; Notice of Amendment and Clarification

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Notice of Funding Availability (NOFA); Notice of amendment and clarification.

**SUMMARY:** On April 11, 1995 (60 FR 18444), HUD published a NOFA announcing the availability of up to $14,580,530 in Fiscal Year 1995 funding for the Fair Housing Initiatives Program (FHIP). This document amends the April 11, 1995 NOFA by removing certain FY 95 funding restrictions and extending the application due date. Additionally, this notice clarifies several of the NOFA's provisions in order to better assist potential applicants in the preparation of their applications. This notice also corrects two typographical errors contained in the April 11, 1995 NOFA.

**ADDRESSES:** To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, Circle Solutions, Inc., 8201 Greensboro Drive, Suite 600, McLean VA 22102 or call the toll-free number 1–800–343–3442 (voice) or 1–800–290–1617 (TDD). Please also contact this number if information concerning this NOFA is needed in an accessible format.

**FOR FURTHER INFORMATION CONTACT:** Sharon Bower, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0800. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

## I. NOFA Amendments

A Notice of Funding Availability (NOFA) announcing the Fiscal Year (FY) 95 availability of $14,580,530 under the Fair Housing Initiatives Program (FHIP) was published by HUD on April 11, 1995 (60 FR 18444). FHIP assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. The body of the April 11, 1995 NOFA contains information concerning the purpose of the NOFA, eligibility, available amounts, how to apply for funding, and how selections will be made.

The April 11, 1995 NOFA establishes limitations on the number and types of FY 95 FHIP awards for which an applicant may apply and receive. Paragraph I.(d)(4) of the April 11, 1995 NOFA limits applicants to a single award under the FY 95 NOFA. Further, the April 11, 1995 NOFA does not permit recipients of FY 93/94 multi-year awards to apply for FY 95 multi-year funds under the same initiative as their FY 93/94 award. Additionally, paragraph I.(c)(4)(ii)(C) of the April 11, 1995 NOFA, concerning the Establishing New Organizations component of the Fair Housing Organizations Initiative, states that preference will be given to proposed projects in targeted unserved and underserved areas.

Because of the growing uncertainty regarding the funding level of FHIP in future years, the Department has determined to amend the FY 1995 NOFA to remove the above described restrictions. These amendments are intended to increase the number of organizations that are eligible to seek funding and the number of awards that a single organization may receive in the competition for FHIP funds in FY 1995. In order to assure that newly eligible applicants have sufficient time to prepare their applications for FY 95 FHIP funding, the Department is also extending the application deadline by thirty days.

## II. NOFA Clarifications

Since the publication of the April 11, 1995 NOFA, several potential applicants have contacted HUD with questions regarding some of the NOFA provisions. HUD is publishing this notice, clarifying several provisions of the April 11, 1995 NOFA, in order to better assist potential applicants in the preparation of their applications.

*a. Use of the Term Nonprofit*

Paragraphs I.(c)(2)(i)(D) and I.(c)(4)(i)(A) (2) and (3) of the April 11, 1995 NOFA include certain nonprofit organizations in the lists of eligible applicants for the Education and Outreach Initiative and the Continued Development of Existing Organizations component of the Fair Housing Organizations Initiative.

As used in paragraphs I.(c)(2)(i)(D) and I.(c)(4)(i)(A) (2) and (3) of the April 11, 1995 NOFA, the term ''nonprofit'' applies to those organizations, institutions or groups organized for purposes other than making a profit or gain for themselves. However, the use of the term ''nonprofit'' does not imply tax-exempt status under section 501(c)(3) of the Internal Revenue Code. Accordingly, eligible applicants under paragraphs I.(c)(2)(i)(D) and I.(c)(4)(i)(A) (2) and (3) of the April 11, 1995 NOFA are not required to be tax-exempt. Where an applicant must be both tax exempt and nonprofit, this is explicitly indicated in the NOFA, for example, in the definitions of ''fair housing enforcement organization'' and ''qualified fair housing enforcement organization.''

*b. Private Enforcement Initiative Funds Utilized to Promote Awareness*

Some potential applicants have expressed concerns that education and outreach efforts necessary to support enforcement activities would not be possible without submitting separate applications for enforcement projects and education and outreach projects. However, the NOFA does permit such supporting efforts. As provided in paragraph I.(c)(3)(ii) of the April 11, 1995 NOFA, applicants under the Private Enforcement (PE) Initiative may utilize 20 percent of requested funds to promote awareness of the services provided by the project. However, such promotion must be necessary for the successful implementation of the project. In addition, this notice removes the single award provision which prompted this concern.

*c. Award Caps on Multi-Year Awards*

The April 11, 1995 NOFA establishes caps on multi-year awards under the

Private Enforcement (PE) Initiative and the Establishing New Organizations Component of the Fair Housing Organizations (FHO) Initiative. Recipients of multi-year PE Initiative awards will receive a maximum, total amount of $600,000 for the entire four-year award period. Similarly, recipients of multi-year awards under the Establishing New Organizations Component of the FHO Initiative will receive a maximum, total amount of $500,000 for the entire three-year award period. Recipients of multi-year awards are not required to budget funding equally for each year of the award period; however, the award must sustain grant activities over the entire multi-year period.

*d. Independence of Awards*

Paragraph I.(d)(5) of the April 11, 1995 NOFA states that ''each project or activity proposed in an application must be independent and capable of being implemented without reliance on the selection of other applications submitted by the applicant or other applicants.'' Paragraph I.(d)(5) does not preclude an applicant from submitting a proposal which includes other organizations as subcontractors to the proposed project or activity.

*e. Eligible Activities Under the Education and Outreach Initiative*

Paragraph I.(c)(2)(ii) of the April 11, 1995 NOFA states that ''each application for Education and Outreach Initiative funding must identify if it proposes a national, Fair Housing Month, regional or local, or community-based program.'' Paragraphs I.(c)(2)(ii)(1)–(16) set forth a list of eligible activities that may be funded through the Education and Outreach Initiative. This list is not an exclusive, complete list of eligible activities, but only serves to demonstrate examples of eligible activities. However, the scope of the eligible activity is limited to the level (national, regional or local, or community-based) at which funding is sought. For example, an applicant proposing to develop a community-based media campaign would apply under the community-based component, while an applicant proposing to develop a national media campaign would apply under the national program component.

*f. Eligible Activities Under the Private Enforcement Initiative*

Paragraph I.(c)(3)(ii) of the April 11, 1995 NOFA sets forth examples of the types of activities that may be funded through the PE Initiative. These are only examples and none of these activities, nor any other activities, have been singled out for any form of preferential consideration.

**III. Technical Corrections**

The third sentence of paragraph I.(c)(4) of the April 11, 1995 NOFA, *Fair Housing Organizations (FHO) Initiative,* reads: '' The amount of $945,482 is made available under this NOFA for the continued development of new organizations.'' The sentence should read ''for the continued development of existing organizations. This notice deletes the word ''new'' and replaces it with the word ''existing.''

On page 18448, in column 1, the two paragraphs immediately following paragraph I.(c)(4)(ii)(A), *Eligible applicants,* are designated as paragraphs I.(c)(4)(ii)(A) (A) and (B), respectively. These paragraphs should be designated as I.(c)(4)(ii)(A) (*1*) and (*2*), respectively. This notice makes the necessary correction.

Accordingly, FR Doc. 95–3901, the FY 95 NOFA for the Fair Housing Initiatives Program (FHIP), published in the **Federal Register** on April 11, 1995 (60 FR 18444) is corrected and amended as follows:

1. On page 18444, in column 1, the second paragraph, DATES, is amended as follows:

Dates: Applications are due July 20, 1995. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as Federal Express or DHL) that is dated on or before the application due date.

2. Under the heading of ''I. Purpose and Substantive Description'' beginning on page 18444, the following amendments are made:

a. On page 18445, in columns 1 and 2, the last two sentences of the second paragraph of paragraph I.(b) are removed;

b. On page 18445, in column 2, the second paragraph of paragraph I.(b)(3) is removed;

c. On page 18445, in column 3, the third sentence of paragraph I.(b)(4) is corrected;

d. On page 18445, in column 3, the third paragraph of paragraph I.(b)(4) is removed;

e. On page 18447, in column 3, the second sentence of paragraph I.(c)(3)(iii)(B) is removed;

f. On page 18448, in column 1, the designations of paragraphs I.(c)(4)(ii)(A) (A) and (B), respectively, are corrected;

g. On page 18448, in column 2, paragraph I.(c)(4)(ii)(C) are amended and a conforming amendment is made on page 18448, in column 1, paragraph I.(c)(4)(ii)(B);

h. On page 18448, in column 2, the second sentence of paragraph I.(c)(4)(ii)(D)(1) is removed; and

i. On page 18449, in column 3, paragraph I.(d)(4) is removed and paragraph I.(d)(5) is redesignated as paragraph I.(d)(4), as follows:

**I. Purpose and Substantive Description**

* * * * *

(b) * * *

(4) *Fair Housing Organizations (FHO) Initiative.* The amount of $7,250,000 in FY 1995 funds is being used for the FHO Initiative. Of this amount, $1,945,482 is being made available through this NOFA. The amount of $945,482 is made available under this NOFA for the continued development of existing organizations. * * *

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(A) * * *

(*1*) Qualified fair housing enforcement organizations.

(*2*) Fair housing enforcement organizations with at least 1 year of experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

(B) *Eligible activities.* Eligible for funding under the purpose of the FHO Initiative are three-year projects that help establish, organize, and build the capacity of fair housing enforcement organizations in the targeted areas identified in section I.(c)(4)(ii)(C)(*1*) or other underserved area identified by the applicant in accordance with section I.(c)(4)(ii)(c)(*2*), below, of this NOFA. * * *

(C) *Target Areas.* (1) Areas within States which lack State fair housing laws which are substantially equivalent to the Fair Housing Act or private fair housing enforcement agencies:

(i) Alabama;

(ii) Delaware;

(iii) New Hampshire;

(iv) Oregon;

(v) Utah;

(vi) Puerto Rico; and

(vii) Wyoming.

(2) A locality within a State, not listed above which the applicant identifies. The applicant must submit sufficient evidence to establish the proposed area as being currently underserved by fair housing enforcement organizations and as containing large concentrations of protected classes. An applicant may provide additional evidence of the need to establish a fair housing organization in a locality by citing data and studies

that indicate the presence of housing discrimination and/or segregation in the locality. An example of evidence that may be used for this purpose is provided in (but is not limited to) the study, *American Apartheid: Segregation and the Making of the Underclass,* by Nancy A. Denton and Douglas S. Massey (Harvard University Press, 1993).

* * * * *

Dated: May 23, 1995.

**Elizabeth K. Julian,**

*Acting Deputy Assistant Secretary for Policy and Initiatives.*

[FR Doc. 95–13185 Filed 5–24–95; 4:16 pm]

BILLING CODE 4210–28–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CA–060–05–7122–6502; CACA 33207]**

### Termination of Recreation and Public Purposes Classification, San Diego County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice terminates the existing Recreation and Public Purposes Classification. All of the public lands under this act have been found suitable for disposal under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

**EFFECTIVE DATE:** May 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** Diane Gomez, Palm Springs-South Coast Resource Area, Bureau of Land Management, 63–500 Garnet Avenue, P.O. Box 2000, North Palm Springs, California 92258–2000, (619) 251–4852.

**SUPPLEMENTARY INFORMATION:** On August 1, 1983, the land described below was classified as suitable for lease or sale pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741) as amended and pursuant to regulations found in 43 CFR 2740:

**San Bernardino Meridian, California**

T. 12 S., R. 3 W.,
Sec. 33: W½SW¼SE¼, SE¼SW¼SE¼.
E½NE¼SW¼SE¼, SE¼SE¼.

75.00 Acres, more or less.

On April 11, 1994, Olivenhain Municipal Water District voluntarily relinquished their lease for Recreation and Public Purposes for the above described public lands.

On January 12, 1995, the public lands described above were segregated from appropriation under the public land and mineral laws for a period of five years.

Dated: May 12, 1995.

**Joan Oxendine,**

*Acting Area Manager.*

[FR Doc. 95–13096 Filed 5–26–95; 8:45 am]

BILLING CODE 4310–40–M

**[NM–070–5101–00–G014; NMNM93652]**

### Modification of Federal Register Notice; New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Modification of scope of Notice of Intent and public comment period.

**SUMMARY:** The Notice of Intent, and notice of public scoping meetings with a public comment period published in the **Federal Register**/Vol. 60, No. 40/ Wednesday, March 1, 1995/ pages 11108 and 11109 is modified. The Mid-American Pipeline Company (MAPCO) Four Corners Loop Project is extended approximately twelve miles westerly from its original northern end at the MAPCO Huefano Pump Station to the El Paso Natural Gas Chaco Plant. The additional pipeline would have a ten inch diameter. The additional segment will be incorporated into the environmental document being prepared.

**DATES:** Written comments on the additional segment of the proposed project will be accepted until June 29, 1995.

**ADDRESSES:** Any comments should be sent to the Bureau of Land Management, Farmington District Office, Attention: Jerry Crockford, 1235 LaPlata Highway, Farmington, NM 87401.

**FOR FURTHER INFORMATION CONTACT:** Jerry Crockford, (505) 599–6333.

Dated: May 23, 1995.

**Joel E. Farrell,**

*Assistant District Manager for Lands and Renewable Resources.*

[FR Doc. 95–13121 Filed 5–26–95; 8:45 am]

BILLING CODE 4310–FB–M

### Bureau of Reclamation

### Requesting Documents Under the Freedom of Information Act Through Internet

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Reclamation (Reclamation) is accepting requests for documents under the Freedom of Information Act (FOIA), via Internet. This action is being taken to provide more accessibility for the public to Reclamation documents. Reclamation's Internet address for FOIA requests is: borfoia@usbr.gov

**FOR FURTHER INFORMATION CONTACT:** Marilyn Rehfeld, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007, telephone: (303) 236–0305 extension 459.

Dated: May 23, 1995.

**Murlin Coffey,**

*Leader, Property and Office Services.*

[FR Doc. 95–13124 Filed 5–26–95; 8:45 am]

BILLING CODE 4310–94–P

### Availability of Proposed and Final Rulemakings in Electronic Format Through Internet

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Reclamation (Reclamation) is making available to the public, via Internet, its proposed and final rulemakings. These documents have been published in the **Federal Register** and include the rule as well as the preamble. This action is being taken to provide more accessibility for the public to Reclamation documents. Reclamation's Internet address for rulemaking is: borregs@usbr.gov

**FOR FURTHER INFORMATION CONTACT:** Marilyn Rehfeld, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007, telephone: (303)236–0305 extension 459.

Dated: May 23, 1995.

**Murlin Coffey,**

*Leader, Property and Office Services.*

[FR Doc. 95–13125 Filed 5–26–95; 8:45 am]

BILLING CODE 4310–94–P

### National Park Service

### Isle Royale National Park; Notice

**AGENCY:** National Park Service, Interior.

**ACTION:** Public notice.

**SUMMARY:** Public notice is hereby given that the National Park Service proposes to award a concession permit authorizing continued operation of boat transportation services between Grand Portage National Monument and Isle Royale National Park, Michigan for the public at Isle Royale National Park for a period of approximately five (5) years from date of execution through December 31, 2000.

**EFFECTIVE DATE:** July 31, 1995.

**ADDRESSES:** Interested parties should contact the Superintendent, Isle Royale National Park, 800 East Lakeshore Drive,

Houghton, Michigan 49931 to obtain a copy of the prospectus describing the requirements of the proposed permit.

**SUPPLEMENTARY INFORMATION:** This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared. The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1994, and therefore pursuant to the provision of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. § 20), is entitled to be given preference in the negotiation of a new proposed permit providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: May 23, 1995.

**Robert K. Yearout,**

*Chief, Concessions Division.*

[FR Doc. 95–13044 Filed 5–26–95; 8:45 am]

**BILLING CODE 4310–70–M**

## Isle Royale National Park, MI; Notice

**AGENCY:** National Park Service, Interior.

**ACTION:** Public notice.

**SUMMARY:** Public notice is hereby given that the National Park Service proposes to award a concession permit authorizing continued operation of boat transportation services to and from Isle Royale National Park for the public at Isle Royale National Park, Michigan, for a period of approximately five (5) years from date of execution through December 31, 2000.

**EFFECTIVE DATE:** July 31, 1995.

**ADDRESSES:** Interested parties should contact the Superintendent, Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan 49931 to obtain a copy of the prospectus describing the requirements of the proposed permit.

**SUPPLEMENTARY INFORMATION:** This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared. The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1994, and therefore pursuant to the provision of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. § 20), is entitled to be given preference in the negotiation of a new proposed permit providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: May 23, 1995.

**Robert K. Yearout,**

*Chief, Concessions Division.*

[FR Doc. 95–13045 Filed 5–26–95; 8:45 am]

**BILLING CODE 4310–70–M**

## Extension of Public Comment Period on the Draft 2(a)(ii) Wild and Scenic River Study Report for the Wallowa River, Oregon

**AGENCY:** National Park Service, Interior.

**ACTION:** Extension of public comment period.

**SUMMARY:** The National Park Service is extending the public review and comment period by 15 days for the draft study report on designating the Wallowa River, Oregon, into the National Wild and Scenic Rivers System.

**DATES:** Comments must be postmarked by June 22, 1995.

**ADDRESSES:** Copies of the draft report are available for public inspection at: National Park Service, 909 First Avenue, 4th Floor, Seattle, Washington 98104–1060; National Park Service, 800 North Capitol Street, NW., Suite 490, Washington, DC 20013–7127; and U.S. Forest Service, Wallowa-Whitman National Forest, 1550 Dewey Avenue, Baker City, Oregon 97814. Hours of availability are between 8:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Additional copies for review are located in the Baker City, Elgin, Enterprise, Joseph, and La Grande, Oregon, libraries during normal hours of operation. Copies of the draft report may be obtained from Dan Haas, National Park Service, at the address below. Comments should be directed to the National Park Service, Pacific Northwest Regional Office, attention Dan Haas at the address below.

**FOR FURTHER INFORMATION CONTACT:** Dan Haas, National Park Service, Pacific Northwest Regional Office, 909 First Avenue, Seattle, Washington 98104–1060, (206) 220–4120.

Dated: May 17, 1995.

**William C. Walters,**

*Interim Deputy, Field Director, National Park Service, Pacific West Field Area.*

[FR Doc. 95–12941 Filed 5–26–95; 8:45 am]

**BILLING CODE 4310–70–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–731 (Preliminary)]**

## Bicycles From China; Import Investigation

### Determination

On the basis of the record [1] developed in the subject investigation, the

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of bicycles,[2] provided for in subheadings 8712.00.15, 8712.00.25, 8712.00.35, 8712.00.44, and 8712.00.48 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

**Background**

On April 5, 1995, a petition was filed with the Commission and the Department of Commerce by Huffy Bicycle Co., Dayton, OH; Murray Ohio Manufacturing Co., Brentwood, TN; and Roadmaster Corp., Olney, IL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of bicycles from China. Accordingly, effective April 5, 1995, the Commission instituted antidumping investigation No. 731–TA–731 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 12, 1995 (60 FR 18611). The conference was held in Washington, DC, on April 26, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 22, 1995. The views of the Commission are contained in USITC Publication 2893 (May 1995), entitled ''Bicycles from China: Investigation No. 731–TA–731 (Preliminary).''

Issued: May 23, 1995.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 95–13148 Filed 5–26–95; 8:45 am]

BILLING CODE 7020–02–P

[2] Commissioner Carol T. Crawford determines that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of bicycles.

**[Investigation No. 337–TA–374]**

## Certain Electrical Connectors and Products Containing Same; Order Designating TEO Investigation ''More Complicated'' (Order No. 1)

At the prehearing conference on May 15, 1995, I proposed a hearing schedule that would require the temporary relief part of this investigation to be designated ''more complicated.'' Rule 210.60 provides that the administrative law judge may designate a case more complicated by an order ''on the basis of the complexity of the issues raised in the motion for temporary relief or the responses thereto, or for other good cause shown.''

In a temporary relief case that is not designated more complicated, the initial determination is due 70 days after publication of the notice of investigation, and the Commission's determination is due 90 days after publication of the notice of investigation. In a more complicated case, the deadlines are extended to 120 days and 150 days, respectively.

It is found that there is good cause to designate the temporary relief part of this case ''more complicated.'' In order to file an initial determination within 70 days (i.e., by July 20), it would be necessary to hold the hearing in early June. This would conflict with a federal district court trial beginning on June 5 which involves the same product. One of the respondents active in the case here is a party in the district court case. Although that case does not involve the same patent that is in issue here, many of the witnesses will be the same, and some of the lawyers in the district court case are also in this case.

The temporary relief part of this investigation is designated ''more complicated'' to permit the hearing in this case to begin on June 26, a week after the district court trial is scheduled to end. Two weeks have been reserved for the hearing in this case, although I expect that it will be completed earlier. I have another hearing scheduled to begin on July 10, so a TEO hearing in this case cannot be scheduled later in July. The parties will have time for post-hearing briefs and the initial determination will be due on September 8, 1995.

This order will be published in the **Federal Register** as required by 19 U.S.C. 1337(e)(2).

Issued: May 23, 1995.

**Janet D. Saxon,**

*Chief Administrative Law Judge.*

[FR Doc. 95–13144 Filed 5–26–95; 8:45 am]

BILLING CODE 7020–02–P

**[Investigation No. 731–TA–730 (Preliminary)]**

## Certain Light-Walled Rectangular Pipe and Tube From Mexico

**Determination**

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of certain light-walled rectangular pipe and tube,[2] provided for in subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

**Background**

On March 31, 1995, a petition was filed with the Commission and the Department of Commerce by Southwestern Pipe, Inc., Houston, TX. alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain light-walled rectangular pipe and tube from Mexico. Accordingly, effective March 31, 1995, the Commission instituted antidumping investigation No. 731–TA–730 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 11, 1995 (60 FR 18422). The conference was held in Washington, DC, on April 21, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 15, 1995. The views of the Commission are contained in USITC Publication 2892

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

[2] The subject products are welded pipes and tubes of nonalloy steel, having a wall thickness of less than 4 millimeters (0.156 inch), of rectangular (including square) cross section. These light-walled rectangular pipes and tubes are supplied with rectangular cross sections ranging from 0.375×0.625 inch to 2×6 inches or with square sections ranging from 0.375 to 4 inches.

(May 1995), entitled ''Light-walled rectangular pipe and tube from Mexico: Investigation No. 731–TA–730 (Preliminary).''

Issued: May 23, 1995.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 95–13149 Filed 5–26–95; 8:45 am]

BILLING CODE 7020–02–P

**[Investigation No. 337–TA–366]**

## Notice of Commission Determinations to Review Certain Portions of the Presiding Administrative Law Judge's Final Initial Determination and To Remand the Initial Determination to the ALJ for Clarification and Additional Findings; Denial of Request for Oral Argument

In the Matter of: Certain microsphere adhesives, process for making same, and products containing same, including self-stick repositionable notes.

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Commission has determined to review certain portions of the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on March 23, 1995, in the above-captioned investigation. The Commission has also determined to remand the ID to the ALJ for additional findings and for clarification of certain findings made in the ID concerning the issues under review. The Commission also determined to deny complainant's request for oral argument.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3104.

**SUPPLEMENTARY INFORMATION:** This investigation was instituted by the Commission on June 8, 1994, based on a complaint filed by Minnesota Mining and Manufacturing Co. (3M). On March 23, 1995, the ALJ issued her final ID in this investigation. The ALJ determined that a violation of section 337 of the Tariff Act of 1930, as amended, has occurred by reason of infringement of certain claims of U.S. Letters Patent 4,166,152 (the '152 patent) in the importation or sale of certain products containing microsphere adhesives by Kudos Finder Tape Industrial Ltd. and Kudos Finder Trading Co. (collectively, Kudos). The finding of violation as to Kudos was based on adverse inferences drawn from Kudos' failure to cooperate in discovery. The ID found no violation as to respondents Taiwan Hopax Chemicals Manufacturing, Co., Ltd.; Yuen Foong Paper Co., Ltd.; Beautone Specialties Co., Ltd.; and Beautone Specialties Co. (collectively, Beautone).

On April 17, 1995, 3M, Beautone, and the Commission investigative attorney filed petitions for review of the ID. On April 27, 1995, the parties filed responses to each other's petitions. Under Commission interim rule 210.53(h), the ID would have become the determination of the Commission on May 8, 1995, unless review were ordered or the review deadline were extended. However, the Commission had previously extended the review deadline until May 23, 1995. 60 FR 17806 (April 7, 1995). The statutory deadline for completing this investigation is December 8, 1995.

Having examined the record in this investigation, including the ID, the Commission determined to review the issues of (1) claim interpretation, (2) patent infringement by Beautone and Kudos, (3) patent validity under 35 U.S.C. 102(f), 102(g), and 112, and (4) domestic industry. The Commission has determined not to review the remainder of the ID. The Commission also determined to remand the ID to the presiding ALJ to make additional findings and to clarify certain other findings made in the ID, and has directed the ALJ to issue her ID on remand on or before August 8, 1995. The ID on remand will be processed in accordance with Commission interim rules 210.53 and 210.54.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and §§ 210.53, 210.56, and 210.58 of the Commission's Interim Rules of Practice and Procedure (19 C.F.R. 210.53, 210.56, and 210.58).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: May 23, 1995.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 95–13147 Filed 5–26–95; 8:45 am]

BILLING CODE 7020–02–P

**[Investigation No. 337–TA–376]**

## Certain Variable Speed Wind Turbines and Components Thereof; Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 21, 1995, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Kenetech Windpower, Inc., 6952 Preston Avenue, Livermore, California 94550. The complaint alleges a violation of section 337 based on the importation, the sale for importation, and/or the sale within the United States after importation of certain variable speed wind turbines and components thereof, by reason of alleged induced and contributory infringement of claim 131 of U.S. Letters Patent 5,083,039 and claim 51 of U.S. Letters Patent 5,223,712. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's T.D.D. terminal on 202–205–1810.

**FOR FURTHER INFORMATION CONTACT:** Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571.

### Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's

Final Rules of Practice and Procedure, 59 FR 39020, 39043 (August 1, 1994).

**Scope of Investigation**

Having considered the complaint, the U.S. International Trade Commission, on May 22, 1995, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of section 337(a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain variable speed wind turbines and components thereof, by reason of alleged infringement of claim 131 of U.S. Letters Patent 5,083,039 or claim 51 of U.S. Letters Patent 5,225,712, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Kenetech Windpower, Inc., 6952 Preston Avenue, Livermore, California 94550.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Enercon GmbH, Dreekamp 5, D–26605, Aurich, Germany

The New World Power Corporation, 558 Lime Rock Road, Lime Rock, Connecticut 06039.

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW, Room 401–O, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Final Rules of Practice and Procedure, 59 FR 39022, August 1, 1994. Pursuant to 19 CFR 201.16(d) and § 210.13(a) of the Commission's Final Rules, 59 FR 39022, August 1, 1994, such responses will be considered by the Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: May 23, 1995.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 95–13150 Filed 5–26–95; 8:45 am]

BILLING CODE 7020–02–P

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 32695]**

### CSX Transportation, Inc.—Trackage Rights Exemption—Vaughan Railroad Company

Vaughan Railroad Company (Vaughan) has agreed to grant nonexclusive trackage rights to CSX Transportation, Inc. (CSXT) over approximately 14.63 miles of its rail line between Rich Creek Junction and Vaughan, WV. The trackage rights begin at Rich Creek Junction, V.S. 364+32, extend to the station of Vaughan, V.S. 643+00=0+00, and continue to the end of Vaughan's ownership at V.S. 482+00. The trackage rights were scheduled to become effective on or after May 17, 1995.[1]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: May 23, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 95–13159 Filed 5–26–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Under 49 CFR 1180.4(g), a verified notice of exemption must be filed with the Commission at least one week before the transaction is consummated. Because the notice of exemption was not filed until May 10, 1995, consummation should take place on or after May 17, 1995, rather than May 15, 1995, as indicated in the verified notice of exemption. Applicant's representative has confirmed that the correct consummation date is on or after May 17, 1995.

## DEPARTMENT OF JUSTICE

### Antitrust Division

### United States v. Topa Equities (V.I.), Ltd.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *Topa Equities (V.I.), Ltd*, Civil Action No. 1994–179, United States District Court for the District of the Virgin Islands St. Thomas/St. John Division, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW, Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of the Virgin Islands, United States Courthouse, Federal Building and U.S. Courthouse, 5500 Veterans Drive, St. Thomas, United States Virgin Islands 00802.

**Rebecca P. Dick,**

*Acting Deputy Director of Operations, Antitrust Division.*

**United States' Response to Public Comments**

[Civil No: 1994–179]

*Introduction*

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(d), the United States responds to public comments on the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on December 7, 1994, when the United States filed a Complaint alleging that Topa Equities (V.I.), Ltd. (hereinafter ''Topa'') had violated section 3 of the Sherman Act (15 U.S.C. 3). The Complaint alleges that through a series of exclusive distribution agreements with all major suppliers of distilled spirits, Topa holds a monopoly on the wholesale distribution in the Virgin Islands of almost every major brand of distilled spirits. The Complaint further alleges that these exclusive distribution rights, taken together, are contracts in restraint of trade within the meaning of the Sherman Act.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement (''CIS''), and a Stipulation signed by Topa for entry of the proposal Final Judgment. The proposed Final Judgment resolves the antitrust violation alleged in the Complaint by enjoining Topa from taking any action to prevent its suppliers of distilled spirits from canceling their distribution arrangements with Topa and appointing new wholesalers instead. The proposed Final Judgment also imposes a number of restrictions on Topa's business practices in order to prevent Topa from unreasonably interfering with the operations of a competitor.

A summary of the terms of the proposed Final Judgment and CIS and directions for the submission of written comments relating to the proposal were published in *The Washington Post* for seven consecutive days beginning December 25, 1994, and in *The Virgin Islands Daily News* on December 21–24 and December 27–29, 1994. The proposed Final Judgment and CIS were published in the **Federal Register** on December 30, 1994. 59 FR 67728 (1994).

The 60-day period for public comments commenced on December 30, 1994, and expired on March 2, 1995. The United States received two comments on the proposed Final Judgment, from St. Thomas Food Products Corp. (''St. Thomas Foods'') and IPV, Inc. trading as A.H. Riise Liquor Stores (''A.H. Riise''). Those comments are being filed with the Court along with this response. Upon careful consideration of these comments, as fully explained below, the United States urges that the proposed Final Judgment be entered as originally submitted to the Court.

## I. Legal Standards Governing the Court's Public Interest Determination

The procedural requirements of the APPA are intended to eliminate secrecy from the consent decree process, to ensure that the Justice Department has access to public comments bearing on the consent decree, and to create a public record of the reasoning behind the government's consent to the decree. *Hearings on H.R. 9203, H.R. 9947, and S. 782, Consent Decree Bills Before the Subcomm. on Monopolies and Commercial Law of the House Judiciary Committee*, 93rd Cong. 1st. Sess. 39–40 (1973) (Statement of Senator Tunney). *See also United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 148 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983).

The APPA requires the Court to determine whether the entry of the decree is ''in the public interest.'' 15 U.S.C. 16(e). The Court's role is not to make a *de novo* determination of facts and issues, but ''to determine whether the Department of Justice's explanations were reasonable under the circumstances,'' for ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *United States* v. *Western Electric Co.*, 993 F.2d 1572, 1577 (D.C.Cir.), *cert. denied*, 114 S.Ct. 487 (1993), quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 544 U.S. 1083 (1981). Thus, the ''court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is 'within the reaches of the public interest.' '' *Bechtel Corp.*, 648 F.2d at 666.

Congress did not intend to require the courts to follow elaborate procedures in making the public interest determination under the APPA. To the contrary, Congress was concerned that unduly protracted proceedings might interfere with the consent decree process. Thus, ''the court is adjured to adopt 'the least complicated and least time-consuming means possible.' '' *United States* v. *Gillette Co.*, 406 F.Supp. 713, 715 (D.Mass. 1975), (quoting S. Rep. No. 93–298, 93d Cong., 1st Sess. 6 (1973); H. Rep. No. 93–1463, 93d Cong., 2d Sess. 8 (1974)).

The Court's public interest inquiry must be conducted in light of the ''violations set forth in the complaint.'' 15 U.S.C. 16(e)(2). The enforcement agency's decision about what charges to bring in its complaint is a matter generally ''committed to the agency's absolute discretion.'' *Heckler* v. *Chaney*, 470 U.S. 821, 831 (1985).

## II. Public Comments

### *A. Comment of St. Thomas Foods*

St. Thomas Foods, a Virgin Island wholesaler of beer, wine, distilled spirits, and other products, commented that the proposed Final Judgment should be rejected because it does not address the wine and beer markets, in which St. Thomas Foods alleges that Topa also has a monopoly, and because it does not require Topa to abandon all rights to distribute certain brands of distilled spirits. The proposed Final Judgment should not be amended in response to this comment.

The Complaint alleges that Topa maintained, through an anticompetitive series of contracts, a monopoly in the wholesale distribution of distilled spirits in the Virgin Islands, but it does not allege maintenance of a monopoly in the wholesale distribution of beer or wine. The United States fully reviewed all of Topa's distribution businesses and determined to challenge only conduct relating to its distribution of distilled spirits. The determination of what conduct to challenge and the scope of any complaint is a matter solely within the discretion of the United States. Thus St. Thomas Foods' initial comment falls outside the scope of Tunney Act review.

St. Thomas also questions the relief the United States has negotiated with Topa relating to the wholesale market for distilled spirits. This *is* a matter properly before this Court under the Tunney Act. As noted in the CIS filed with the Complaint and proposed Final Judgment, the United States considered whether to pursue litigation in order to win structural relief terminating some of Topa's exclusive distribution arrangements with suppliers of distilled spirits. The United States concluded that this alternative would place an unacceptably large burden on some suppliers, which are among the victims of Topa's conduct. The competitive problem in this case arises from the fact that Topa has had exclusive distribution agreements with *all* major suppliers of distilled spirits. If some suppliers shift to other distributors, exclusive contracts between Topa and remaining suppliers would not be anticompetitive; competition among brands would mitigate the lack of intra-brand competition in brands sold exclusively through a single wholesaler. The Untied States did not have a basis for determining which suppliers should be shifted to other distributors, nor for urging a court to single out certain suppliers for such treatment. Thus the United States concluded that the better course would be to permit each supplier to determine, for itself, whether to

continue to deal through Topa exclusively. The relief imposed by the proposed Final Judgment presents an effective means to invigorate competition in the wholesale distribution of distilled spirits in the Virgin Islands without establishing unnecessary regulatory constraints that would interfere with free market forces.

*B. Comment of A.H. Riise*

A.H. Riise owns four retail liquor stores in the Virgin Islands and probably is the largest retailer of distilled spirits in the territory. The defendant, Topa, is A.H. Riise's principal source for distilled spirits. A.H. Riise objected that the proposed remedies do not bar Topa from interfering with suppliers that want to sell directly to retailers. Thus, A.H. Riise urges adoption of a provision prohibiting Topa from communicating with any supplier for the purpose, or with the effect, of urging, compelling, or coercing the supplier to refrain from bypassing the wholesale level of distribution altogether and selling directly to a retailer. This suggested provision would allow suppliers to violate their exclusive distribution arrangements with Topa in order to sell directly to retailers. In addition, A.H. Riise suggests that price regulation be imposed, forcing Topa to offer lower prices to A.H. Riise and thus enabling A.H. Riise to compete more effectively in the tourist duty-free market. Finally, A.H. Riise wants to extend the term of the Final Judgment form five years to ten.

A.H. Riise may be the only retailer large enough to attract direct sales from even a small supplier. Conceivably, a supplier might want to deal directly with A.H. Riise while distributing through a wholesaler to other retailers. Nothing in the proposed Final Judgment impedes this type of arrangement, and the provisions A.H. Riise proposes are not needed to achieve the full relief in this action of enabling distillers to break free of their exclusive agreements with Topa.

There is no reason to provide for special relief for the duty-free market. The interbrand competition that will result from the relief in this case will benefit the duty-free market as well as the retail market for Virgin Islands consumers.

A.H. Riise has also urged that the term of the proposed Final Judgment be changed to ten years. The five-year duration of the proposed Final Judgment is adequate to accomplish its objective. The time needed for a supplier of distilled spirits to switch wholesalers is limited, probably no more than thirty to sixty days. All that is necessary to accomplish the switch is the transfer of existing inventory from one warehouse to another. In wholesaling as opposed to manufacturing, start-up times are short. In wholesaling, there is no need to build a factory, assemble complicated machinery, or arrange for supplies of raw materials; basically, all that is needed is a warehouse and a truck. Thus, even a new-entrant wholesaler could have its business up and running quickly. Sufficient capital to finance inventory is necessary, of course. But the necessary level of capital, while not trivial, is far from prohibitive. Also, the proposed Final Judgment provides that Topa must furnish a copy of the Judgment to each supplier, so its term will be well-known in the industry within days of its entry by the Court. For these reasons, the term of the proposed Final Judgment need be no longer than five years.

The United States also notes statements, cited by A.H. Riise and attributed to the defendant and its counsel in this action, stating that the decree is ineffective. This talk is more wishful than accurate: The decree is carefully designed to ensure full and effective relief. Moreover, the United States assures the Court, the people of the Virgin Islands, and the defendant that we will vigorously enforce this decree and monitor its success. Should competitive problems in the distribution of alcoholic beverages in the Virgin Islands recur, the United States stands ready to address them.

The proposed Final Judgment will make it attractive for certain suppliers to find new wholesalers that will more vigorously promote their products in the Virgin Islands, thereby correcting the competitive harms resulting from Topa's past conduct and increasing competition in the local wholesale distilled spirits market. Therefore, the proposed Final Judgment should be entered as proposed by the parties.

**Conclusion**

For the reasons set forth above, entry of the decree as submitted by the parties to the Court is in the public interest. St. Thomas Foods' comment, A.H. Riise's comment, and this response will be published in the **Federal Register.**

Dated: May 5, 1995.

Respectfully submitted,

Anne K. Bingaman,

*Assistant Attorney General.*

John T. Orr,

Justin M. Nicholson,

James L. Weis,

*Attorneys, Antitrust Division, Department of Justice, Richard B. Russell Building, Suite 1176, 75 Spring Street, SW., Atlanta, GA 30303, (404) 331–7100.*

**Certificate of Service**

I hereby certify that I have caused a copy of the foregoing UNITED STATES' RESPONSE TO PUBLIC COMMENTS to be served upon Ernest Gellhorn, 2907 Normanstone Lane NW., Suite 100, Washington, DC 20008–2725, by first class mail, postage prepaid.

Dated: May 5, 1995.

Justin M. Nicholson,

*Antitrust Division, U.S. Department of Justice, Richard B. Russell Building, Suite 1176, 75 Spring Street, SW., Atlanta, GA 30303, (404) 331–7100.*

January 19, 1995

Mr. John T. Orr,
Chief, Atlanta Field Office,
Antitrust Division, Dept. of Justice,
Richard B. Russell Federal Building,
75 Spring Street, SW.,—Suite 1176,
Atlanta, Georgia 30303.

Re: U.S. v. Topa Equities (V.I.), Civil No. 1994–179

Dear Mr. Orr: I have read with great interest the Complaint, Stipulation and proposed Final Judgment in the above referenced case, which was provided to me by Mr. James L. Weis of your office. This letter is being written to give you my comments on the proposed Final Judgment.

To say the least I am simply amazed at the conclusion of this case. Justice has accomplished absolutely nothing after many years of investigation and I am sure the expenditure of several hundreds of thousands of dollars.

The Topa Equities (V.I.), Ltd., monopoly remains intact. There is no provision in the proposed Final Judgment for any kind of divestiture of liquor brands where Topa has an exclusive agency arrangement. Therefore Topa remains is full control of 90% plus of all the liquor imported and sold in the Virgin Islands. This leaves Topa with the same monopoly position they enjoyed prior to the extensive investigation of the Dept. of Justice. The fact that the Final Judgment precludes Topa from interfering with a supplier moving liquor brands from Topa to another agent is simply a joke. Topa being fully aware of their mononuclear position in the liquor market never would have sued or interfered with a supplier moving brands because they are fearful of their monopolistic practices becoming public in open court.

Another observation I have on the proposed Final Judgment is that it does not address the Wine and Beer business in the Virgin Islands. I am sure that your investigation revealed that Topa also controls and monopolizes the Wine and Beer

importing/distributing business in the Virgin Islands. Topa has the exclusive agency rights for all the major brands of United States beers, Anheuser Busch, Coors and Miller Brewing. Topa also represents many of the major brands of imported beers, Becks, Corona, Carlsberg, Caribe, Guiness, Tennants, and Red Stripe. This then gives Topa 85% market share of all beers of U.S. manufacturer and 70% market share of all imported beers. Yet your Final Judgment makes no mention of the beer business in the Virgin Islands.

The same is true of the Wine importing/distribution business in the Virgin Islands. Topa owned companies have control of over 80% of this business and again the Final Judgment makes no provisions to address this monopoly.

In my opinion the proposed Final Judgment should not be accepted by the District Court of the Virgin Islands. The Judgment should be sent back to the Dept. of Justice and the investigation reopened to address the oversights that I have made above. Topa should be forced to divest itself of brands it controls to once and for all end the monopoly it has enjoyed for all these years. These brands should not only be liquor agencies but should include beer as well as wine. Further Topa should be assessed money damages to at least cover the costs of the investigation and whatever fines the Court deems appropriate.

All in all I am very dissatisfied with the results of your investigation and the proposed Final Judgment. I feel that your investigation was a waste of your time, my time and great deal of tax payer money.

Sincerely.

St. THOMAS FOOD PRODUCT CORP.

Bruce Kimelman.

*President*

BK/lf

cc. District Court of the Virgin Islands, Division of St. Thomas-St. John

February 24, 1995

John T. Orr, Chief, Atlanta Field Office, Antitrust Division, U.S. Department of Justice, Richard B. Russell Federal Building, Suite 1176, 75 Spring Street, Atlanta, GA 30303

Re: United States of America v. Topa Equities (V.I.), Ltd., D.V.I. Civil No. 1994–179

Dear Chief Orr: In response to the Notice published in the **Federal Register** on December 30, 1994 (59 FR 67728), I am submitting herewith, on behalf of my client IPV, Inc. trading as A.H. Riise Liquor Stores, the enclosed ''Comments of A.H. Riise Liquor Stores on Proposed Final Judgment'' in the above case.

Very truly yours,

Samuel H. Seymour.

SHS/ced

Enclosures

cc: Justin M. Nicholson, Esq., James L. Weis, Esq.

## Comments of A.H. Riise Liquor Stores on Proposed Final Judgment

Moore & Bruce

*Samuel H. Seymour, Jonathon R. Moore, 1627 Eye Street, NW., Suite 880, Washington, DC 20006, Tel: (202) 775–5980, Counsel for IPV, Inc., trading as A.H. RIISE LIQUOR SHOPS*

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## Comments of A.H. Riise Liquor Stores on Proposed Final Judgment

IPV, Inc., trading as A.H. Riise Liquor Stores, P.O. Box 6280, St. Thomas, U.S. Virgin Islands 00804–6280 (''A.H. Riise''), through its attorneys, hereby responds to the **Federal Register** notice soliciting public comments on the Proposed Final Judgment and Competitive Impact Statement (''CIS'') in the above-captioned case, 59 FR 67728 (Dec. 30, 1994). A.H. Riise respectfully submits that adoption of the Final Judgment in the form proposed is not in the public interest, because the remedies proposed provide no tangible or immediate prospect for achieving the goals set forth in the CIS: The restoration of competition in the wholesale market for distilled spirits in the Virgin Islands.

### I. The Defendant's Own Comments Demonstrate That the Proposed Final Judgment Is Not in the Public Interest

As a threshold matter, before we describe A.H. Riise or analyze the Proposed Final Judgment, it is incumbent upon us to bring to the attention of the Court and the Department the contemptuous manner in which the Defendant holds the Proposed Final Judgment. A Press Release issued by Defendant Topa upon the announcement of the settlement with the Department states:

> According to Ernest Gellhorn, an antitrust lawyer from Washington, D.C. retained by Topa, ''the proposed remedy is all bark and no bite.'' Pointing to the decree's ''meaningless provisions that would modify contract terms written by suppliers or would make supposed scarce warehouse space available to new entrants,'' Gellhorn called ''this *probably the weakest consent decree ever negotiated by the Department of Justice*.'' (Emphasis added.)

A copy of Defendant's Press release is attached hereto as Exhibit 1.

Significantly, the Defendant distributed this Press Release to its suppliers two days *before* the Department filed the Complaint and the Proposed Final Judgment with the Court. The message is clear: Nothing will change.

The Court—and the Department—should scrutinize the motives and substance behind Defendant's Press Release. It is a red flare. It sends a vivid warning: something is seriously wrong with the Proposed Final Judgment. The Press Release belies any assertion in the CIS that the Proposed Final Judgment is in the public interest.

Under the circumstances, the only proper course is for the Department to withdraw its consent to the Proposed Final Judgment. Should it fail to do so, the Court should not rubber stamp the apparent oversights or miscalculations that have brought this case to the brink of approval, lest it, too, be the subject of Defendant's derision.

### II. A.H. Riise is an Interested Party

A.H. Riise owns and operates four retail stores for distilled spirits [1] in St. Thomas, Virgin Islands. It is among the class of retailers of distilled spirits in the Virgin Islands which has ''been deprived of the benefits of free and open competition'' by Defendant's actions. Complaint, ¶ 19(c). A.H. Riise is a family-owned business, whose current owners are the third and fourth generations of the family to be involved

[1] Unless otherwise noted, the defined terms from Section III of the Complaint are utilized in these comments.

in the ownership and management of retail liquor businesses in the Virgin Islands.

Defendant Topa is A.H. Riise's major source of supply of distilled spirits. Based upon the description of Defendant's business in Paragraph 3 of the Complaint, A.H. Riise purchases represent at least 20% of Defendant's sales in the Virgin Islands. As such, A.H. Riise is a significant participant in the market which is the subject of the Complaint in this action.

A.H. Riise is also a major factor in the tourist market for distilled spirits in the Virgin Islands. Although conspicuously omitted from the Complaint, the Proposed Final Judgment and the CIS, the tourist submarket for duty-free distilled spirits in the Virgin Islands may represent as much as 60% of the relevant market. On information and belief, A.H. Riise's sales constitute more than half of the sales of distilled spirits to this submarket. A.H. Riise is among the class of retailers most adversely effected by Defendant's monopolistic pricing practices and anti-competitive efforts to dissuade suppliers from selling directly to retailers.

## III. The Court Has the Authority To Reject the Proposed Final Judgment if Competition Will Not Be Restored

The Antitrust Procedures and Penalties Act (the ''Tunney Act'') provides in pertinent part that ''before entering any consent judgment proposed by the United States * * *, the court shall determine that entry of such judgment is in the public interest.'' 15 U.S.C. 16(e). The power of the courts in connection with determining the public interest and the legal standard of review to be applied is comprehensively set forth in *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 147–153 (D.D.C. 1982), *aff'd sub nom Maryland* v. *United States*, 460 U.S. 1001 (1983).

In reviewing the purposes of the Tunney Act, the *AT&T* Court referred to the legislative history, which asserted that previously ''consent decrees often fail(ed) to provide appropriate relief, either because of miscalculations by the Justice Department or because of the 'great influence and economic power' wielded by antitrust violators.'' *Id* at 148. In support, the Court cited Senator Tunney: ''Regardless of the ability and negotiating skill of the Government's attorneys, they are neither omniscient nor infallible.'' *Id* at 148, note 70, citing 119 Cong. Rec. 3452 (1973). In response, the public comment procedure was added to the antitrust laws, along with judicial review based on the public interest standard. The express purpose of such review is to ''eliminate judicial rubber-stamping'' of proposed consent orders submitted to courts by the Department. *Id* at 149.

Senator Tunney's comments are particularly appropriate in this case. As discussed below, it is apparent that the Complaint, the Proposed Final Judgment and the CIS overlook highly relevant and significant facts relating to the Defendant's anti-competitive practices. The legislative history makes it clear that the Court here, as the Court did in the recent decision in the *United States* v. *Microsoft Corporation*, C.A. No. 94–1564 (Memorandum Order dated Feb. 14, 1995), can and should look beyond the four corners of the complaint in determining whether the public interest is being served by the Proposed Final Judgment.

In examining the legal standard to be applied in determining the public interest, the *AT&T* Court stated that antitrust ''decisions granting relief after a finding of liability form the most relevant yardstick for determining whether the proposed consent decree will further antitrust policies.'' After noting that the purpose of antitrust remedies is to restore competition and end monopoly power, the Court stated that proposed decrees ''must leave the Defendant without the ability to resume the action which constituted the antitrust violation in the first place. For these reasons, the decree should not be limited to past violations; it must also effectively foreclose the possibility that antitrust violations will occur or reoccur.'' *Id* at 150. As discussed below, the Proposed Final Judgment is particularly deficient in addressing restoration of competition in the future. When evaluated under the standards articulated by the *AT&T* Court, the Proposed Final Judgment will be found to be inconsistent with the public interest.

The *AT&T* Court premised its analysis upon the fundamental purpose of the Tunney Act to ''fully promote the goals of the antitrust laws and further public confidence in their fair enforcement.'' The Court noted that the consent order procedure prior to the enactment of the Tunney Act was essentially secret, and thereby ''undermin(ed) confidence in the legal system.'' It is submitted that the Defendant's arrogant and disparaging characterizations of the Proposed Final Judgment should be the catalyst that brings these fundamental concerns into sharp focus in the Court's determination of the public interest.

## IV. The Proposed Final Judgment Is Not in the Public Interest

### *A. The Proposed Final Judgment Is Premised on a Complaint That Overlooks Material Factors in the Relevant Markets*

Both the Complaint and the Proposed Final Judgment are based on an incorrect view of the market for distilled spirits in the Virgin Islands. The Department apparently has misunderstood or overlooked important facts concerning the channels of distribution in the Virgin Islands market, the important of the submarket for distilled spirits sold to tourists, and, most importantly, the Defendant's monopolistic pricing practices. Accordingly, the Complaint and Proposed Final Judgment overlook the only way in which existing market forces can be used to restore competition: By permitting suppliers and retailers to deal directly with each other without interference from the Defendant.

1. The Proposed Final Judgment Defines Away the Most Immediate Prospect for Restoring Competition

Deficiencies in the Proposed Final Judgment's analysis are first evident in the definitional provisions in the Complaint and the Proposed Final Judgment. The term ''retailer'' is defined in Paragraph 7 of the Complaint and Paragraph IID of the Proposed Final Judgment to mean ''any person engaged in the business of purchasing distilled spirits *from wholesalers* as defined herein, and reselling them to consumers in establishments located in the Virgin Islands * * * (Emphasis added.) Significantly, however, some retailers, including A.H. Riise, purchase directly from suppliers, and would do so to a greater extent if it were not for the Defendant's active interference. Yet the possibility that retailers can purchase from suppliers is not even recognized by this definition. Accordingly, the one present and tangible means by which Defendant's monopoly power can be reduced under existing competitive conditions is obviated definitionally.

The definition of ''supplier'' in Paragraph 8 of the Complaint and Paragraph IIE of the Proposed Final Judgment is similarly deficient. This definition provides that supplier means ''any licensed manufacturer, distiller, or importer of distilled spirits from which *Defendant or any other licensed wholesaler*, as defined herein, purchases or has purchased distilled spirits.'' (Emphasis added.) Again, the Complaint and the Proposed Final Judgment do not even recognize that suppliers do sell

directly to retailers and would do so to a greater extent if Defendant's interference were eliminated. Although Virgin Islands law does not permit vertical integration of retailers and wholesalers, Complaint ¶ 10 and ¶ CIS II, there is no prohibition against retailers dealing directly with suppliers.

In fact, Defendant's monopoly power has enabled it to prevent most retailers from obtaining distilled spirits directly from suppliers. This interference occurs particularly where Defendant has exclusive arrangements with suppliers, and even where it does not. The Proposed Final Judgment, as drafted, could be understood by the Defendant to sanction its activities in this regard, which could well intensify as a result. Failure to recognize that retailers can purchase directly from suppliers, and that such arrangements require protection from Defendant's monopoly power, are glaring deficiencies in the Complaint.

2. The Complaint, Proposed Final Judgment and CIS Overlook the Significance of the Tourist Submarket to the Public Interest

The Complaint, the Proposed Final Judgment and the CIS also conspicuously omit any mention of the tourist market for distilled spirits. Tourism is a significant part of the Virgin Islands economy. The duty-free rules, which allow visitors from the United States mainland to enter up to five bottles per person duty-free into the United States from the Virgin Islands,[2] are important enhancements for tourism in the Virgin Islands and, indeed, are a substantial feature of the competitive landscape of the market defined by the Complaint. Tourists, however, will only purchase distilled spirits ''duty-free'' in the Virgin Islands if they are priced competitively with products that they can purchase on cruise ships and at other Caribbean destinations, and, of course, in the continental United States.

Defendant's monopolistic pricing practices have had a material adverse impact on commerce in distilled spirits in the Virgin Islands in the tourist market, but no one would ever know this from the Complaint, the Proposed Final Judgment and the CIS.[3] Without any competition at the wholesale level, Defendant Topa is able to take far larger wholesale mark-ups than are customary. Retailers like A.H. Riise have had no alternative other than to accept Defendant's monopolistic pricing, except in instances where they have been able to by-pass Topa and purchase directly from suppliers. Even after cutting their margins to the bone, retailers often cannot compete with prices of distilled spirits on cruise ships, other Caribbean Islands and, even sometimes on the U.S. mainland, since monopolistic margins are exacted by Defendant at the wholesale level. Thus, A.H. Riise's sales—and those of other retailers—are far lower than they otherwise would be. Accordingly, tourists buy less in the Virgin Islands, and the Virgin Islands economy loses substantial excise and gross receipts tax revenues, as well as lost employment opportunities for retailers and others who serve the tourists trade.

3. It is Contrary to the Public Interest To Permit Defendant's Monopolistic Pricing to Continue

Since the Complaint does not allege anti-competitive pricing practices on the part of Defendant, it is hardly surprising that such practices are not remedied in the Proposed Final Judgment. It is remarkable that after citing injury to suppliers and retailers, Complaint ¶ 19 (c) and (d), CIS ¶ IIB, there is no mention of injury to consumers. Yet there is no single factor that has a greater bearing on the Court's determination of the public interest in this case than Defendant's pricing practices. Defendant's monopolistic pricing damages consumers—both Virgin Islands residents and tourists—to the detriment of the Virgin Islands economy.

On those occasions when suppliers have been willing to sell directly to A.H. Riise, often over interference from the Defendant, A.H. Riise has been able to substantially reduce prices offered to tourists so that they are more competitive with prices offered by cruise ship stores, on other Caribbean islands and in the U.S. As a result, sales increased dramatically, as did profits. Further, A.H. Riise was able to spend considerably more on advertising and promotion to encourage cruise ship passengers to purchase distilled spirits in the Virgin Islands, rather than at foreign ports.

These results were demonstrated again recently when A.H. Riise was finally able to conclude arrangements to purchase directly from a supplier, which had previously sold only through Defendant Topa. Without excessive wholesale margins, A.H. Riise was able to lower the per unit price by $5.00, which increased the gap between its prices and U.S. mainland prices from $1–$2 to $6–$7 per unit. In only a two week period, sales increased 500% and profits increased 100%. Corresponding increases were realized in revenues paid to the Virgin Islands taxing authority.

Conversely, when the prices it receives from Defendant Topa compel retail pricing that a higher, the same or only slightly lower than competing sources available to tourists, sales decline, profits are non-existent, and resources available for promotion are marginal. In A.H. Riise's experience, tourists are generally well-educated on the subject of distilled spirits prices. Accordingly, when they can purchase distilled spirits at substantial savings, they are inclined to make most of their duty-free purchases from retailers in the Virgin Islands. Moreover, once tourists see that duty-free prices for distilled spirits are lower, they tend to purchase greater amounts of other duty-free merchandise in the Virgin Islands as well. Thus, it is not difficult to see how monopolistic pricing at the wholesale level has an immediate negative and depressing impact on sales, profits and promotional activities, with a corresponding impact on employment, tax revenues and the Virgin Islands economy.

In its review of the proposed consent order in *United States* v. *Microsoft, supra,* the Court recognized that the failure of the Department to address significant anti-competitive practices by the defendant was grounds for a determination that the proposed order was not in the public interest. Notwithstanding the vehement objections of the defendant and the Department in that case, the Court refused to accept an order that was limited to operating systems software for X86 microprocessors. There, as here, the proposed Complaint and relief are too narrow, and for that reason must be found not to be in the public interest.

B. The Remedies in the Proposed Final Judgment Do Not Adequately Address the Competitive Harm Identified

The Complaint and the CIS correctly point out that the Defendant has virtual monopoly in the wholesale distilled spirits market in the Virgin Islands. Complaint ¶ 17; CIS ¶ II B. Certain effects of this monopoly are then identified: (1) Retailers are deprived of alternative sources for competing products; and (2) suppliers are deprived

[2] Persons returning to the United States mainland from the Virgin Islands are exempted from duty on four liters (the equivalent of five fifths) of distilled spirits, plus an additional liter of any such product produced in the Virgin Islands. Heading 9804.00.70, Harmonized Tariff Schedule of the United States (1995).

[3] The impact of Defendant's monopolistic practices is far more significant in the tourist market for distilled spirits than in the local market. This is because residents of the Virgin Islands have no choice but to purchase locally, whereas tourists can buy distilled spirits on board cruise ships, on other Caribbean Islands or on the U.S. mainland.

of the benefits of free and open competition, in part because Defendant Topa has inherent conflicts of interest in the representation of competing products and cannot represent all competing brands equally. Complaint, ¶ 19 (c) and (d); CIS ¶ II B. The CIS then states that the purpose of the Proposed Final Judgment is to remedy these effects. But not only are the Complaint and Proposed Final Judgment drafted too narrowly, the remedies proposed are also ineffective.

Rather than ordering a breakup of the Defendant, divestiture of the acquisitions by which it obtained its monopoly, Complaint ¶ 17, or unilateral termination of its distribution agreements, CIS ¶ VI, the Proposed Final Judgment merely attempts to establish new ground rules for the distilled spirits wholesale market in the Virgin Islands that purport to make it more likely for new entrants to dilute the Defendant's monopoly power and thereby restore a competitive environment. There are two main features of the Proposed Final Judgment: (1) Permitting suppliers to break exclusive contracts with Defendant, but only to deal with another wholesaler; and (2) enjoining Defendant from enforcing its rights under Title 12A, Sections 131 and 132, of the Virgin Islands Code for ''wrongful termination.'' Once new entrants appear, the Defendant would be enjoined from (1) interfering with any of the potential new entrants' employees and (2) from acquiring any stock or interest in such new entrants.[4] Proposed Final Judgment ¶¶ IV (b), (c), (f) and (g).

In a moment of candor, the Defendant characterized the foregoing as ''meaningless provisions'' that are ''all bark and no bite.'' Press Release, Exhibit 1. A.H. Riise agrees.

Rather than providing a mechanism for existing market forces to restore competitiveness, the proposed remedies depend on new entrants coming into the wholesale distilled spirits business in the Virgin Islands. The relief proposed, therefore, is merely hopeful. At best, it poses a theoretical framework for competition to develop in the future. Whether the proposed remedies will in fact have any immediate and tangible effect on the competitive environment in the Virgin Islands must depend totally on extrinsic factors, the existence of which are unknown or speculative.

How likely is it that ''new players'' will arrive to compete on the new theoretical ''level playing field'' constructed by the Proposed Final Judgment? Not likely at all.[5] To become viable, potential entrants will need very substantial capital for inventory and warehouse facilities, employees who know the business, and the ability to attract suppliers' business. Each of these factors is far more significant to entering the market than the elements of the proposed remedies. In determining whether the remedies in the Proposed Final Judgment have a reasonable chance of achieving their stated goals, the Court should not overlook the fact that every potential entrant that has tried to come into this market in the last decade has failed. CIS ¶ 2. At the present time, A.H. Riise knows of no company or individual with the necessary capital, personnel and know-how that could enter the Virgin Islands wholesale market for distilled spirits. Further, based on discussions with wholesalers outside the Virgin Islands, little incentive to enter the Virgin Islands market is perceived.

The lack of confidence that the proposed remedies will achieve their stated goals is seen in the CIS. For example, the CIS states: ''qualified personnel, with the necessary connections with the retail trade, are difficult to find in the Virgin Islands. Paragraphs IV(b) and IV(c) *may* help an entrant to hire and retain qualified personnel to run a distilled spirits business in the Virgin Islands without undue interference from Topa.'' (Emphasis added.) CIS ¶ III. They also may not. Indeed, potential entrants will need substantial capital to succeed much more than Topa's noninterference with their employees.

Moreover, as a practical matter, once suppliers are freed from exclusive arrangements with the Defendant, it does not necessarily follow that suppliers will switch to new entrants. Indeed, without a strong track record, why should a major supplier of distilled spirits trust a new entrant to develop its market in the Virgin Islands? The CIS recognizes this problem: ''Any *disatisfied* supplier will be free to find an alternative distributor *if the supplier chooses to do so* * *''* (Emphasis added.) CIS ¶ III. The CIS candidly admits that suppliers will have to be dissatisfied with Topa before they would switch to new, unknown wholesalers.

Because any decision to switch must lie with the suppliers, there can be no guarantee that the model in the Proposed Final Judgment will restore competition.

In fact, the ingredients needed to restore this market to a competitive one are already in place, but have been overlooked in the Proposed Final Judgment. Existing retailers already know the products, the suppliers, and the markets. It is the retailers, in their pricing and promotion, that make markets for each brand. But for the on-going interference by the Defendant, retailers would be in the position *now* to restore competition to the distilled spirits market in the Virgin Islands by dealing directly with suppliers. It is therefore contrary to the public interest to rely solely upon speculative, future, unknown, external factors to enter the wholesale market, as posited by the Proposed Final Judgment. Instead, suppliers' and retailers' rights to deal with each other need to be recognized—and protected.

### V. At a Minimum, Any Final Judgment Should Expressly Recognize and Protect Retailers' Rights To Deal Directly With Suppliers, Without Interference From Defendant

Even though the Proposed Final Judgment is deficient in its theoretical approach to restoration of competition, A.H. Riise does not believe that divestiture or the termination of exclusivity arrangements with suppliers are the only remedies that can help erode Defendant's monopoly. With slight modifications, the Proposed Final Judgment can be rectified to achieve the stated goal of providing retailers with alternative sources and freeing suppliers from a single wholesaler that also represents their competitors. That remedy is to recognize—and protect—suppliers and retailers' rights to deal directly with one another without interference from the Defendant. We have attached as Exhibit 2 a ''red-lined'' copy of the Proposed Final Judgment on which we have made recommended revisions that, with minor modifications, would permit the Proposed Final Judgment to achieve the competitive goals set forth in the CIS.

The following language, which could be added after Paragraph IV A of the Proposed Final Judgment, would implement this approach: (Topa is enjoined and restrained from:)

Communicating with any supplier, wholesaler or other person for the purpose or with the effect of urging, compelling, or coercing any supplier or wholesaler to refrain from selling distilled spirits to any retailer in the Virgin Islands. Nothing in this paragraph

[4] We have deliberately omitted any analysis of the problem of the scarcity of warehouse space, which is given inordinate attention. Complaint at ¶ 16, Proposed Final Judgment ¶ IV E, CIS ¶ II. Defendant's reference to this issue as ''supposed scarce warehouse space'' in its Press Release, Exhibit 1, suggests that this issue is be a straw man.

[5] *See* CIS ¶ VI. The only reason that unilateral termination of Defendant's exclusive arrangements with suppliers might ''place an unacceptably large burden'' on them is if no other wholesaler entered the market, notwithstanding the proposed relief.

of Section IV shall be construed to inhibit Topa from negotiating, entering into and adhering to a contract dealing with a supplier on an exclusive basis; provided, that such designation shall not directly or indirectly prevent any retailer in the Virgin Islands from acquiring distilled spirits directly from any supplier.

The suggested language is derived from the consent order issued in *United States* v. *Maryland State Licensed Beverage Association, Inc.*, CCH Trade Reg. Rep. ¶ 69,261 (D. Md., 1958). In that case, distributors and wholesalers were charged with collusion in attempting to keep retailers from dealing directly with suppliers. The appropriate remedy to enjoin such anti-competitive practices was to recognize retailers' and suppliers' rights to deal directly with each other, while continuing to permit exclusive arrangements between wholesalers and suppliers. The same approach is appropriate here.

In addition, the current Paragraph D of Section IV of the Proposed Final Judgment should be amended as follows:

(Topa is enjoined and restrained from:)

D. Refusing to deal with any retailer because that retailer deals with another wholesaler *or directly with a supplier.*'' (Suggested revision emphasized.)

In commenting on Paragraph IVD of the Proposed Final Judgment, the CIS points out: ''Even if Topa loses some brands to a new or existing wholesaler, Topa will retain enormous influence over retailers. This provision (as drafted) will prevent Topa from abusing that position in the retail trade * * *.'' However, unless language is added to Paragraph IVD expressly protecting retailers' and suppliers' rights to deal directly with each other, the Proposed Final Judgment could be read by Defendant Topa to sanction refusals to deal in circumstances where suppliers deal directly with retailers.

It is imperative that the Proposed Final Judgment expressly prohibit Topa's interference with efforts on the part of retailers to deal directly with suppliers. It is this omission that poses the greatest threat to competition in the Virgin Islands. As one of Defendant's attorneys points out in the Press Release, Exhibit 1: ''nor will (the Proposed Final Judgment) change how Topa does business 'because the company is not being asked to anything different from what it has been doing over the past five years.' '' One of the things Topa has been doing over the past five years is interfering with direct supplier-retailer relationships. Unless Topa's behavior changes, competition will not be restored to the wholesale distilled spirits market in the Virgin Islands.

Only by recognizing and protecting suppliers' and retailers' rights to deal directly with each other can the discipline of competition be restored. For example, if A.H. Riise is able to purchase from suppliers, there is nothing to prevent the Defendant or other wholesalers from selling to A.H. Riise if they can provide better price/service/delivery than can be obtained from suppliers directly. Presumably the wholesale prices that Defendant and other wholesalers can obtain for providing wholesaler functions will be lower than the prices retailers will be able to obtain directly. Therefore, there will always be a role for the Defendant to play in the Virgin Islands distilled spirits wholesale market, provided the Defendant prices competitively.

## VI. The Five Year Duration for the Proposed Final Judgment Is Patently Inadequate

There is probably no other area that more accurately demonstrates Defendant's characterization that the Proposed Final Judgment is the ''weakest * * * ever negotiated by the Department of Justice'' than the five-year term proposed for the order. Proposed Final Judgment ¶ VIII. Defendant has enjoyed its monopoly power for over a decade. Old habits die hard. Even if A.H. Riise's recommended modifications in the Proposed Final Judgment were to be adopted, such an order should remain in effect for a minimum of ten years to give competitive forces an opportunity to develop and become viable and effective.

## Conclusion

The Proposed Final Judgment is not in the public interest, because it is too narrowly drawn and its remedies will not restore competition in the distilled spirits market in the Virgin Islands. The Complaint and the proposed remedies totally overlook Defendant's monopolistic pricing practices. Moreover, the terms of the Proposed Final Judgment which purport to provide fertile soil for potential new entrants to enhance competition, in the words of the Defendant, are ''meaningless provisions.'' Topa Press Release, Exhibit 1.

Price competition will be quickly restored if suppliers are freed to deal directly with retailers. Competitive pricing in this market is in the public interest, because it will boost tourism and tourism-related commerce, thereby enhancing employment and tax revenues in the Virgin Islands. Unfortunately, the Proposed Final Judgment does not promote this goal. It should therefore be rejected.

Conversely, adoption of the Proposed Final Judgment as drafted will permit Defendant's monopoly power to go unchecked. Since, as correctly characterized by Defendant's Press Release, Exhibit 1, Defendant is not required to change its behavior, adoption of the Proposed Final Judgment will legitimize and institutionalize its anti-competitive practices and monopolistic power. A continuation of these practices would be detrimental to suppliers, retailers, the consuming public, and, more generally, the economy of the Virgin Islands, and thus, the public interest. Therefore, the Proposed Final Judgment should be withdrawn and modified as suggested in Exhibit 2.

Respectfully submitted,

Samual H. Seymour

Jonathan R. Moore

**Note:** Retyped by Department of Justice

## TOPA Press Release

Topa Equities (V.I.), Ltd. today announced that it had reached a settlement with the Department of Justice closing down the government's drawn out investigation of acquisitions by Topa of distilled spirits distributors in the early 1980's.

''Topa conceded nothing nor did it acknowledge that these acquisitions had any effect on competition,'' said Maria Hodge, counsel for Topa. ''The case was settled and a proposed consent decree was accepted for one reason—to end the five-year investigation.''

Hodge further stated that ''the decree would have no effect on Topa's business activities'' even though the investigation ''had examined all of its on-going business activities. Apparently they couldn't find anything wrong that could be challenged under the antitrust laws except some acquisitions over a decade ago.''

According to Ernest Gellhorn, an antitrust lawyer from Washington, DC retained by Topa, ''the proposed decree is all bark and no bite.'' Pointing to the decree's ''meaningless provisions that would modify contract terms written by suppliers or that would make supposed scare warehouse space available to new entrants,'' Gellhorn called ''this probably the weakest consent decree ever negotiated by the Department of Justice.''

Gellhorn also said that the reason that the Department of Justice was willing to accept this ''moral defeat'' was that ''after combing through ten years of Topa's records and interviewing scores

of others, the government could not find anything to object to about how Topa conducts its business.''

Topa's decision to settle this matter ''involves no finding or acknowledgment of any wrong-doing,'' attorney Hodge emphasized. Nor will it change how Topa does business ''because the Company is not being asked to do anything different from what it has been doing over the past five years.''

All the government has complained about is that Topa's acquisitions resulted in it being the sole wholesale distributor for major distilled spirits in the U.S. Virgin Islands. ''What the government fails to note,'' according to Ms. Hodge, ''is that Topa has been successful because it has served both its suppliers and its customers so well.'' Nonetheless, ''it has accepted this settlement in order to end what has been a significant drain on the company's resources,'' Hodge said.

Topa owns West Indies Corp. and Bellows International, Ltd. in the U.S. Virgin Islands. ''None of the acquisitions we have made in the Virgin Islands have been sought out by us,'' said Topa Chairman, John Anderson. ''In several cases, we were asked to help a failing company, which in turn allowed many employees to keep their jobs. Our only aim has been to be a good employer and a good corporate citizen in the V.I. community and a solid performer for our many quality brands.'' Topa employees (sic) over 225 employees in the Territory.

For additional information, please call Maria Hodge (809–774–6845).

December _____, 1994

**Note:** Retyped by Department of Justice. Brackets (''[ ]'') substituted by Department of Justice for redlining in the original.

**Final Judgment**

Plaintiff, United States of America, filed its Complaint on December 7, 1994. Plaintiff and defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not constitute any evidence against, or any admission by, any party with respect to any issue of fact or law. Defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court. Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and each of the parties consenting to this Final Judgment. The Complaint states a claim upon which relief may be granted against defendant under Section 3 of the Sherman Act (15 U.S.C. § 3).

II

As used in this Final Judgment:

A. ''Distilled spirits'' means liquor products of all types intended for human consumption, including, but not limited to, whiskey, gin, vodka, rum, tequila, brandy, liqueurs and cordials, but excluding wine and malt beverages and non-alcoholic beverages.

B. ''Person'' means any individual, association, cooperative, partnership, corporation or other business or legal entity.

C. ''Virgin Islands'' means the Territory of the Virgin Islands of the United States.

D. ''Retailer'' means any person engaged in the business of purchasing distilled spirits from wholesalers [or suppliers], as defined herein, and reselling them to consumers in establishments located in the Virgin Islands, including such Virgin Islands-located establishments as retail liquor stores, grocery stores, convenience stores, restaurants and hotels.

E. ''Supplier'' means any licensed manufacturer, distiller or importer of distilled spirits from which defendant or any other wholesaler [or any retailer], as defined herein, purchases distilled spirits or has purchased distilled spirits within one year prior to this Final Judgment.

F. ''Wholesaler'' means any person holding a wholesaler's license for distilled spirits from the government of the Virgin Islands and who is engaged in the business of purchasing distilled spirits from suppliers and reselling them to other wholesalers or to retailers located in the Virgin Islands.

G. ''Topa Equities (V.I.), Ltd.'' (hereinafter referred to as ''Topa'') means defendant and its parent (but only to the extent of its effective supervision of, or direct involvement in, defendant's wholesale distribution of distilled spirits in the Virgin Islands), wholesaler subsidiaries, wholesaler affiliates, successors and assigns (excluding any independent purchasers), directors, officers, managers, agents and employees and any other person acting for or on behalf of them.

III

The provisions of this Final Judgment shall apply to Topa and to all other persons in active concert or participation with Topa who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Topa is enjoined and restrained from:

A. Taking any action under any contract or under Title 12A, Sections 131 and 132, of the Virgin Islands Code to prevent its suppliers from canceling their distribution arrangements for distilled spirits, whether written or not, with Topa upon thirty days' written notice and appointing another wholesaler in its stead. In the event of such cancellation of distribution arrangements for distilled spirits by a supplier, Topa shall, at the supplier's request, sell back to the supplier, at the prices Topa paid to the supplier to purchase the products, plus storage, handling and transportation costs, as well as all taxes and duties paid by Topa, all distilled spirits that Topa then has in its possession that were purchased by Topa from the supplier and that have not been sold or otherwise committed, and otherwise assist in the orderly disposition of such existing inventory;

[B.] Communicating with any supplier, wholesaler or other person for the purpose or with the effect of urging, compelling, or coercing any supplier or wholesaler to refrain from selling distilled spirits to any retailer in the Virgin Islands. Nothing in this paragraph of Section IV shall be construed to inhibit Topa from negotiating, entering into, and adhering to a contract dealing with a supplier on an exclusive basis; provided, that such designation shall not directly or indirectly prevent any retailer in the Virgin Islands from acquiring distilled spirits directly from any supplier.]

[C.] Entering into with, of enforcing or attempting to enforce against, any officer of Topa, any written contract, agreement or covenant not to compete in the distilled spirits industry in the Virgin Islands; and countering an offer of employment to any officer of Topa from any wholesaler with which a Topa supplier has entered into any arrangement to distribute its distilled spirits in the Virgin Islands. Otherwise, Topa may give its officers raises, bonuses and promotions in the ordinary course of business, counter offers of employment from distributors not engaged in the distribution of distilled spirits and take action against its former officers for the unlawful disclosure of trade secrets;

[D.] Making unsolicited offers of employment to any executive employee

of any wholesaler with which a supplier has entered into any arrangement to distribute its distilled spirits in the Virgin Islands for two years following the opening for business of such wholesaler, unless such employee has previously resigned from or been terminated by such wholesaler;

[E.] Refusing to deal with any retailer because that retailer deals with another wholesaler [or directly with a supplier];

[F.] Intentionally preventing, or attempting to prevent, any wholesaler with which a supplier has entered into any arrangement to distribute its distilled spirits in the Virgin Islands from obtaining warehouse space for the distribution of distilled spirits. Topa may, in the ordinary course of business, seek, retain and acquire warehouse space to meet its ordinary and necessary business requirements;

[G.] Directly or indirectly merging or consolidating with, or acquiring securities of, any other wholesaler without obtaining the prior written consent of the Antitrust Division of the Department of Justice; and

[H.] Acquiring, without obtaining the prior written consent of the Antitrust Division of the Department of Justice, either any quantity in excess of 5% of a wholesaler's assets, excluding inventory, applied to the wholesale distribution of distilled spirits in the Virgin Islands, or any quantity in excess of 30% of a wholesaler's inventory of distilled spirits.

Within thirty days of the entry of this Final Judgment, Topa shall cause to be delivered to all suppliers who have contracts then in existence with Topa, written or otherwise, by certified letter or its equivalent, a copy of this Final Judgment.

V

For the purpose of determining or securing compliance with this Final Judgment and subject to any recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request by the Attorney General or by the Assistant Attorney General in charge of the Antitrust Division, and on reasonable written notice to defendant made to its principal office in Los Angeles, California, be permitted:

1. Access during the office hours of defendent to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant, which may have counsel present, relating to any of the matters contained in the Final Judgment; and

2. Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees and agents of defendant, any of whom, together with defendant, may have counsel present, regarding any such matters.

B. Upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office in Los Angeles, California, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment, as may be requested.

C. No information obtained by the means provided in this Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

D. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to be that to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure or as otherwise provided by statute, and the defendant marks each pertinent page of such material, ''Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' or as otherwise provided by statute, then ten days' notice shall be given by the United States to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

VI

Topa shall:

A. Establish and implement a plan for monitoring compliance by its officers, directors, agents, managers and other employees with the terms of the Final Judgment; and

B. File with this Court and serve upon plaintiff, within ninety days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with this Final Judgment.

VII

Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

VIII

This Final Judgment will expire on the [delete ''fifth''] [tenth] anniversary of its date of entry.

IX

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge, District of the Virgin Islands.

[FR Doc. 95–12561 Filed 5–26–95; 8:45 am]
BILLING CODE 4410–01–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (95–032)]**

### Intent to Grant a Partially Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of intent to grant a patent license.

**SUMMARY:** NASA hereby gives notice of intent to grant ICI Composites Inc., 2055 East Technology Circle, Tempe, AZ 85284; and Imitec, Inc., 990 Maxon road, Schenectady, NY 12308, a partially exclusive license to practice the invention protected by the U.S. Patent Application Numbers 08/209,512 entitled ''PHENYLETHNYL TERMINATED IMIDE OLIGOMERS,'' which was filed on March 3, 1994; and 08/330,773 entitled ''IMIDE OLIGOMERS ENDCAPPED WITH PHENYLETHYNYL PHTHALIC ANHYDRIDES AND POLYMERS THEREFORM,'' which was filed on October 28, 1994, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with the Department of Commerce Licensing Regulations (37 CFR Part 404). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to the notice and then

recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

**DATES:** Comments to the notice must be received by July 31, 1995.

**ADDRESSES:** National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harry Lupuloff, NASA, Director of Patent Licensing at (202) 358–2041.

Dated: May 19, 1995.

**Edward A. Frankle,**

*General Counsel.*

[FR Doc. 95–13043 Filed 5–26–95; 8:45 am]

**BILLING CODE 7510–01–M**

## NATIONAL SCIENCE FOUNDATION

### Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting an expedited notice of information collection that will affect the public. Interested persons are invited to submit comments by June 30, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243. Comments may also be submitted to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, ATTN: Jonathan Winer, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

*Title:* Education and Human Resources Impact Database.

*Affected Public:* State or local governments.

*Respondents/Reporting Burden:* 19 respondents: average 110 hours per response.

*Abstract:* An Integrated data system that will contain data for all programs managed by the NSF's Directorate for Education and Human Resources. Data will be used to support program studies and evaluations and also for effective program assessments and evaluations throughout the Directorate.

Dated: May 24, 1995.

**Herman G. Fleming,**

*Reports Clearance Officer.*

[FR Doc. 95–13129 Filed 5–26–95; 8:45 am]

**BILLING CODE 7555–01–M**

### Notice of Permit Applications Received Under the Antarctic Conservation Act

**AGENCY:** Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application from Mr. Skip Novak, owner and operator of the *Pelagic* (a 54-foot steel sloop), for management of materials and wastes for camping and climbing activities in the Antarctic Peninsula, submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before June 29, 1995. Permit applications may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

**FOR FURTHER INFORMATION CONTACT:** Robert S. Cunningham or Peter R. Karasik at the above address or (703) 306–1031.

**SUPPLEMENTARY INFORMATION:** NSF's Antarctic Waste Regulation, 45 CFR Part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of banned substances or designated pollutants in Antarctica, and for the release of waste in Antarctica. NSF has received a permit application under this Regulation which covers materials and waste management associated with two planned expeditions per year by the *Pelagic,* which accommodates a total of eight people on board, for camping and climbing activities along the Antarctic peninsula. The permit applicant is: Mr. Skip Novak, PELAGIC, 92 Stachell Lane, Hamble, Hampshire, S031 4HL ENGLAND. The proposed duration of the permit is from December 27, 1995 through December 26, 2000.

**Activity for Which Permit Requested**

The PELAGIC is planned to make two 35-day trips per year to the Antarctic Peninsula. Passengers will be making one to two day outings on shore at various landing locations and will be using gasoline or kerosene in camping stoves during camping and climbing trips. All garbage including food wastes, plastics, tins, and bottles will be packed out of Antarctica and returned to South America on the ship. Conditions of the permit will include requirements to avoid Antarctic Specially Protected Areas (SPAs) and Sites of Special Scientific Interest (SSSIs), educate participants with the requirements of the Antarctic Conservation Act (ACA), report on the removal of materials and any accidental releases, and manage human waste in accordance with antarctic waste regulations.

**Robert S. Cunningham,**

*NEPA Compliance Manager, Office of Polar Programs, National Science Foundation.*

[FR Doc. 95–13056 Filed 5–26–95; 8:45 am]

**BILLING CODE 7555–01–M**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–424 and 50–425]**

### Georgia Power Company, et al; Vogtle Electric Generating Plant, 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 exemption from certain requirements of its regulations to Facility Operating License Nos. NPF–68 and NPF–84, issued to Georgia Power Company, et al. (the licensee) for operation of the Vogtle Electric Generating Plant (Vogtle), Units 1 and 2, located at the licensee's site in Burke County, Georgia.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed action would grant an exemption from certain requirements of 10 CFR 50.60, ''Acceptance Criteria for Fracture Prevention Measures for Light-Water Nuclear Power Reactors for Normal Operation,'' to allow application of an alternate methodology to determine the low temperature overpressure protection (LTOP) setpoint for Vogtle. The proposed alternate methodology is consistent with guidelines developed by the American Society of Mechanical Engineers (ASME) Working Group on Operating Plant Criteria (WGOPC) to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure-relieving devices used for LTOP. These guidelines have been incorporated into Code Case N–514, ''Low Temperature Overpressure Protection,'' that has been approved by the ASME Code Committee. The content of this Code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI. The NRC staff is revising 10 CFR 50.55a that will

endorse the 1993 Addenda and Appendix G of Section XI into the regulations.

The philosophy used to develop Code Case N–514 guidelines is to ensure that the LTOP limits are still below the pressure/temperature (P/T) limits for normal operation, but allow the pressure that may occur with activation of pressure-relieving devices to exceed the P/T limits, provided acceptable margins are maintained during these events. This philosophy protects the pressure vessel from LTOP events, and still maintains the Technical Specification P/T limits applicable for normal heatup and cooldown in accordance with Appendix G to 10 CFR Part 50 and Sections III and XI of the ASME Code.

The proposed action is in accordance with the licensee's application for an exemption to 10 CFR 50.60 dated October 3, 1994, as supplemented by letter dated March 1, 1995.

*The Need for the Proposed Action*

Section 50.60 states that all light-water nuclear power reactors must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary as set forth in Appendices G and H to 10 CFR part 50. Appendix G to 10 CFR Part 50 defines P/T limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. Section 50.60(b) specifies that alternatives to the described requirements in Appendices G and H to 10 CFR part 50 may be used when an exemption is granted by the Commission under 10 CFR 50.12.

To prevent transients that would produce pressure excursions exceeding the Appendix G P/T limits while the reactor is operating at low temperatures, the licensee installed an LTOP system. The LTOP system includes pressure relieving devices in the form of Power-Operated Relief Valves (PORVs) that are set at a pressure low enough that if a transient occurred while the coolant temperature is below the LTOP enabling temperature, they would prevent the pressure in the reactor vessel from exceeding the Appendix G P/T limits. To prevent these PORVs from lifting as a result of normal operating pressure surges (e.g., reactor coolant pump starting, and shifting operating charging pumps) with the reactor coolant system in a water solid condition, the operating pressure must be maintained below the PORV setpoint.

In addition, in order to prevent cavitation of a reactor coolant pump, the operator must maintain a differential pressure across the reactor coolant pump seals. Therefore, the licensee must operate the plant in a pressure window that is defined as the difference between the minimum required pressure to start a reactor coolant pump and the operating margin to prevent lifting of the PORVs due to normal operating pressure surges. The licensee's proposed LTOP analysis includes changes to account for the non-conservatism identified in Westinghouse Nuclear Safety Advisory Letter 93005A and Information Notice 93–58. The new analysis accounts for the static head due to elevation differences and the dynamic head effect of four reactor coolant pumps (RCP) operation. By including these factors and using the Appendix G safety margins, the licensee determined that the operating margin to the PORV setpoint would be depleted at approximately 120°F for Unit 1 and 145°F for Unit 2. Therefore, operating with these limits could result in the lifting of the PORVs and cavitation of the RCPs during normal operation.

The licensee proposed that in determining the PORV setpoint for LTOP events for Vogtle Units 1 and 2, the allowable pressure be determined using the safety margins developed in an alternate methodology, in lieu of the safety margins required by Appendix G to 10 CFR Part 50. Designated Code Case N–514, the proposed alternate methodology is consistent with guidelines developed by the American Society of Mechanical Engineers (ASME) Working Group on Operating Plant Criteria to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure-relieving devices used for LTOP. Code Case N–514, ''Low Temperature Overpressure Protection,'' has been approved by the ASME Code Committee. The content of his Code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI. The NRC staff is revising 10 CFR 50.55a, which will endorse the 1993 Addenda and Appendix G of Section XI into the regulations.

An exemption from 10 CFR 50.60 is required to use the alternate methodology for calculating the maximum allowable pressure for the LTOP setpoint. By letter dated October 3, 1994, as supplemented by letter dated March 1, 1995, the licensee requested an exemption from 10 CFR 50.60 for this purpose.

In addition to requesting the exemption from 10 CFR 50.60, the licensee proposed an amendment to the Technical Specifications revising the LTOP analysis. The new analysis removes the non-conservatism as described previously. The amendment will be evaluated separate from this exemption request.

*Environmental Impacts of the Proposed Action*

Appendix G of the ASME Code requires that the P/T limits be calculated: (a) Using a safety factor of 2 on the principal membrane (pressure) stresses, (b) assuming a flaw at the surface with a depth of one-quarter (¼) of the vessel wall thickness and a length of six (6) times its depth, and (c) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the McGuire reactor vessel material.

In determining the PORV setpoint for LTOP events, the licensee proposed to use safety margins based on an alternative methodology consistent with the proposed ASME Code Case N–514 guidelines. The ASME Code Case N–514 allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel would not exceed 110% of the P/T limits of the existing ASME Appendix G requirements. This results in a safety factor of 1.8 on the principal membrame stresses. All other factors, including assumed flaw size and fracture toughness, remain the same. Although this methodology would reduce the safety factor on the principal membrane stresses, use of the proposed criteria will provide adequate margins of safety to the reactor vessel during LTOP transients and will satisfy the underlying purpose of 10 CFR 50.60 for fracture toughness requirements.

The change will not increase the probability or consequences of accidents, no changes are being made in the type of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed change involves use of more realistic safety margins for determining the PORV setpoint during LTOP events. It does not affect non-radiological plant

effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

*Alternative to the Proposed Action*

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. 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 similar.

*Alternative Use of Resources*

This action did not involve the use of any resources not previously considered in the Final Environmental Statement related to operation of the Vogtle Electric Generating Plant.

*Agencies and Persons Consulted*

In accordance with its stated policy, on May 23, 1995, the staff consulted with the Georgia State official, Mr. James L. Setser of the Georgia Department of Natural Resources, regarding the environmental impact of the proposed action. The state official had no comments.

*Finding of No Significant Impact*

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letter dated October 3, 1994, as supplemented by letter dated March 1, 1995, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the local public document room located at the Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 22nd day of May 1995.

For the Nuclear Regulatory Commission.

**Herbert N. Berkow,**

*Director, Project Directorate II–2, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.*

[FR Doc. 95–13103 Filed 5–26–95; 8:45 am]

BILLING CODE 7590–01–M

## Reveiw of NRC Inspection Report Content, Format, and Style

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for public comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is revising its procedures on inspection reports and requests public comment on whether the content, format and style of inspection reports as currently issued are appropriate, and how they may be improved.The NRC is soliciting comments from interested public interest groups, the regulated industry, States, and concerned citizens. Comments are requested from both reactor and materials licensees. This request is intended to assist the NRC in making the inspection report a more effective tool for communicating with the regulated industry and the public, and in meeting the NRC's responsibility for public health and safety.

**DATES:** The comment period expires June 29, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Submit written comments to: David Meyers, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publication Services, Office of Administration, Mail Stop: T–6D–59, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Laban Coblentz, Mail Stop: O–12E–4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415–2619.

**SUPPLEMENTARY INFORMATION:**

### Background

The Office of Nuclear Reactor Regulation (NRR) has begun a review of the content, format, and style of NRC inspection reports, as a preliminary step to revising internal inspection report procedures. The review is being led by Laban Coblentz, Inspection Program Branch, NRR, and is being supplemented by contacts in other NRC Headquarters offices and the regions.

This review will attempt, through discussion, review, and consensus-building, to define the characteristics of the ideal NRC inspection report, and to revise internal procedures to produce reports meeting those characteristics. As such, it involves understanding the results of other assessments, learning from inspection report users, and evaluating the interfaces of the report with other agency processes and systems. The scope of the review applies only to documenting inspection results, and does not encompass the focus, scope, or frequency of inspections.

NRC inspection reports are primarily designed to communicate the results of an NRC inspection to the licensee inspected. They:

(1) Briefly describe the areas inspected, with more detail given to support more significant findings;

(2) Give general conclusions about the effectiveness of the Program or activity inspected;

(3) Provide a basis for other NRC action, including Enforcement actions, Plant Performance Reviews, Systematic Assessments of Licensee Performance (SALPs), and other assessments.

In addition to the primary addressee, inspection reports communicate relevant information on licensee performance to other NRC offices, other licensees, public interest groups, Congressional oversight committees, other Federal agencies, State and local governments, and the public. Unless exempted from pubic disclosure (e.g., because of containing proprietary or safeguards information), copies of NRC inspection reports are placed in the NRC Public Document Room (PDR).

### Scope of the Review

This review will attempt to approach the NRC inspection report from two perspectives. The first is that of the initial readers—primarily the licensee to whom the report is addressed, but also the other readers listed above. This viewpoint should highlight questions such as, ''Is the message clear?'' ''Is the information presented in a logical, consistent manner?'' ''Is the tone appropriate?'' etc.

The second viewpoint is that of subsequent users (e.g., a manager preparing a SALP report, an inspector scanning old reports for past problems, a group of local citizens reviewing a licensee's history of issues, or an external agency evaluating the effectiveness of NRC inspection in a particular area). This viewpoint should emphasize the ease of information retrieval, consistency of format from report to report, effective report

summaries, accurate and usable cross-references, and appropriate level of detail.

Additional detail on the scope of the review is given in the questions below. Public comments are sought on these issues to assist the NRC in its review. Although the NRC is interested in as many comments as possible, commenters are not obligated to and need not address every issue.

In providing comments, please key your responses to the number of the applicable question (e.g., ''Response to A.3''). Section D should be used for additional or miscellaneous comments. Comments should be as specific as possible. The use of examples is encouraged.

Comments are requested on the following specific issues:

*A. Inspection Report Content*

1. Focus on safety:

a. Are inspection reports appropriately focused on safety issues? Should report writers be required to articulate the safety significance of each finding?

b. Is the level of detail for a given issue generally commensurate with the significance of that issue?

c. What threshold of significance should be used to determine whether or not an observation should be documented in the inspection report? Do existing reports generally use an appropriate threshold of significance?

d. Are reports, as currently written, too negative in their focus? Should ''equal time'' be given to discussions of licensee strengths and successes? If so, what criteria should be used to include such findings in inspection reports?

2. Supporting Details:

a. Do inspection reports generally contain an appropriate level of detail to describe technically complex issues?

b. What level of detail should be included for describing an event when that event has already been described separately in a licensee event report?

c. What level of detail should be used to describe inspection activities when little or no findings have resulted from those activities?

d. What are the costs and benefits of including, as enclosures to the report, all referenced material to support report findings (e.g., licensee procedures, supporting calculations, or independent studies)?

3. Enforcement Issues:

a. What information should be included in inspection reports to support taking enforcement actions?

b. Are reports generally clear in stating the circumstances of the violation (e.g., what requirement was violated, how it was violated, who identified it, etc.)?

c. Is sufficient detail generally given to substantiate enforcement-related conclusions?

d. Should all minor and non-cited violations be documented in inspection reports? What threshold should be used to determine the significance of compliance items that must be documented?

4. Clear Conclusions:

a. Are report conclusions generally well-supported by facts? Is the progression of logic generally clear?

b. Is a conclusion statement always necessary for each section of the report (e.g., when limited observations or findings were made in a given area)?

*B. Inspection Report Format*

1. Consistency:

a. Should inspection report formats be consistent from region to region? What benefits or problems would result from adopting a standardized report outline?

b. What are the advantages and disadvantages of combined or integrated inspection reports (e.g., one report per six weeks, per reactor site, covering all areas)?

c. When is the use of ''boilerplate'' appropriate (i.e., standard phrases or sentences used from report to report to describe similar inspection methods, purposes, or conclusions)? Should more or less boilerplate be used?

2. Readability:

a. What features increase or decrease a report's readability or effectiveness in communication?

b. Do you prefer a narrative or a ''bulletized'' appearance?

3. Usefulness:

a. What features increase or decrease the efficiency of later efforts to retrieve information from a report (e.g., for SALP reviews, regional studies, or external reviews)?

b. Are there particular parts of the report that could be deleted without decreasing the report quality or detracting from its function?

4. Report Summaries: What information should be included in a report summary? How should it be presented?

5. Cover Letters: How might cover letters be modified to express more clearly the level of concern, or to better convey a particular performance message to a licensee?

*C. Inspection Report Style*

1. Style variations: In what ways do variations in writing style influence the effectiveness of inspection reports?

2. NRC style: Are there particular features of standard NRC style (e.g., consistent use of past tense or third-person form) that make inspection reports more readable? Less readable?

3. Tone: Are inspection reports generally written in an appropriate tone?

4. Grammatical Construction: Are inspection reports generally acceptable in sentence and paragraph construction? Do they give evidence of careful proofreading?

*D. Additional Comments*

In addition to the above specific issues, commenters are invited to provide any other views on NRC inspection reports that could assist the NRC in improving their effectiveness.

Dated at Rockville, Maryland, this 23rd day of May 1995.

For the Nuclear Regulatory Commission.

**Richard W. Borchardt,**

*Chief, Inspection Program Branch, Directorate for Inspection & Support Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 95–13104 Filed 5–26–95; 8:45 am]

BILLING CODE 7590–01–M

## Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 75th meeting on June 21 and 22, 1995, in Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance, with the exception of portions that may be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

The agenda for this meeting shall be as follows:

Wednesday, June 21, 1995–8:30 a.m. until 6 p.m. and

Thursday, June 22, 1995–8:30 a.m. until 4 p.m.

During this meeting the Committee plans to consider the following:

A. *Final PRA Policy Statement*—The Committee will discuss the NRC staff's proposed Probabilistic Risk Assessment Policy Statement and Implementation Plan with representatives of the NRC staff.

B. *Technical Site Suitability Process*—Representatives from the U.S. Department of Energy (DOE) will discuss the major elements of the technical site suitability process being applied at the proposed high-level waste repository at Yucca Mountain, Nevada.

C. *Seismic Hazard Analyses*—The Committee will review the NRC staff and Center for Nuclear Waste

Regulatory Analyses' strategy for evaluating the DOE's seismic hazard analyses program. This review will include discussions of the use of the SEISMO–1 code, related key technical uncertainties, and the status of topical reports under review.

D. *Meeting with the Director, NRC's Division of Waste Management, Office of Nuclear Material Safety and Safeguards*—The Director will provide information to the Committee on the status of current waste management issues, which will include the progress on the integration of key technical uncertainties, the status of DOE technical basis report reviews, and the results of alcove tests at the proposed Yucca Mountain high-level waste repository.

E. *Preparation of ACNW Reports*—The Committee will discuss proposed reports including regulatory issues on low-level-radioactive waste performance assessment, and Seismic Hazard Analyses for the proposed high-level waste repository at Yucca Mountain, Nevada. Additional topics will be considered as time permits.

F. *Use of Expert Judgment*—The Committee will hear presentations by and hold discussions with the NRC staff on draft technical guidance on the use of expert judgment in performance assessment for licensing a radioactive waste repository.

G. *Recent Report by the National Academy of Sciences*—The Committee will hold discussions with members of the Academy and their staff on a recent Academy report on the Ward Valley, California low-level-waste disposal site.

H. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will also discuss ACNW-related activities of individual members. The Committee will elect officers for the next twelve months.

I. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 7, 1994 (59 FR 51219). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACNW Executive Director prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW Executive Director if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the ACNW Executive Director, Dr. John T. Larkins (telephone 301/415–7360), between 7:30 a.m. and 4:15 p.m. EDT.

Dated: May 23, 1995.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 95–13105 Filed 5–26–95; 8:45 am]

BILLING CODE 7590–01–M

## NUCLEAR WASTE TECHNICAL REVIEW BOARD

### Board Meeting: Waste Isolation Strategy, Thermal Management Strategy, the Engineered Barrier System

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board will hold its summer meeting on July 11–12, 1995, in Salt Lake City, Utah. The meeting will be held at the Little America Hotel, 500 South Main Street, Salt Lake City, Utah 84101; (Tel) 801–363–6781; (Fax) 801–596–5911. The meeting is open to the public and will begin at 8:30 a.m. both days. Presentations during the meeting will focus on the Department of Energy's (DOE) advanced conceptual design for a potential deep geologic repository for spent nuclear fuel and defense high-level radioactive waste at Yucca Mountain, Nevada; new radionuclide release standards for Yucca Mountain (based on the National Academy of Sciences studies); and updates on environmental impact statement scoping studies for the DOE's high-level nuclear waste program and exploratory facility construction at Yucca Mountain (including tunnel boring machine operations). The Board also will hear about the annotated outline being developed by the DOE for license application to construct a repository, should the Yucca Mountain site be found suitable.

Time will be set aside on the agenda for comments and questions from the public. To ensure that everyone wishing to speak is provided time to do so, the Board encourages those who have comments to sign the Public Comment Register, which will be located at the sign-in table. Those signing up are advised that, depending on the number of people wishing to speak, a speaking limit may have to be set on the length of individual remarks. However, written comments of any length may be submitted for the record.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to ealuate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent nuclear fuel and defense high-level waste. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for the disposal of that waste.

Transcripts of the meeting will be available on computer disk or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning September 6, 1995. For further information, contact Frank Randall, External Affairs, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; (Tel) 703–235–4473; (Fax) 703–235–4495.

Dated: May 24, 1995.

**William Barnard,**

*Executive Director, Nuclear Waste Technical Review Board.*

[FR Doc. 95–13127 Filed 5–26–95; 8:45 am]

BILLING CODE 6820–AM–M

## OFFICE OF PERSONNEL MANAGEMENT

### Notice of Request for Reclearance of OPM Form 2809

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. OPM Form 2809, Health Benefits Registration Form, is used by annuitants and former spouses to elect, cancel, or change health benefits enrollment during periods other than open season.

Approximately 34,800 OPM Form 2809's are completed annually. We estimate that it takes 45 minutes to fill out the form. The annual burden is 26,100 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8464.

**DATES:** Comments on this proposal should be received on or before June 29, 1995.

**ADDRESSES:** Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Service, Operations Support Division, U.S. Office of Personnel Management, 1900 E. Street, NW, Room 3349, Washington, DC 20415
and
Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

**FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:** Mary Beth Smith-Toomey, Team Leader, Forms Analysis and Design (202) 606–0623.

U.S. Office of Personnel Management.

**Lorraine A. Green,**

*Deputy Director.*

[FR Doc. 95–13057 Filed 5–26–95; 8:45 am]

**BILLING CODE 6325–01–M**

**[OPM Form 2809–EZ1]**

## Notice of Request for Review of a Revised Information Collection

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for review of a revised information collection. OPM Form 2809–EZ1, Enrollment Change and Brochure Request, is used only at Open Season to request an enrollment change, insurance plan brochures and other information materials. If OPM Form 2809–EZ1 is used to request plan brochures, an OPM Form 2809–EZ2 is furnished to the enrollee for use if a plan change is desired.

Approximately 74,200 OPM Forms 2809–EZ1 are completed annually. Each form takes approximately 30 minutes to complete. The annual burden is 37,100 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

**DATES:** Comments on this proposal should be received on or before June 29, 1995.

**ADDRESSES:** Send or deliver comments to—

Lorraine E. Dettman, Chief, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415
and
Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

**FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:** Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025.

U.S. Office of Personnel Management.

**Lorraine A. Green,**

*Deputy Director.*

[FR Doc. 95–13060 Filed 5–26–95; 8:45 am]

**BILLING CODE 6325–01–M**

## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions From the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Patricia Paige, (202) 606–0830.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on April 28, 1995 (60 FR 21012). Individual authorities established or revoked under Schedules A and B and established under Schedule C between April 1, 1995, and April 30, 1995, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, will also be published.

**Schedule A**

No Schedule A authorities were established or revoked during April 1995.

**Schedule B**

No Schedule B authorities were established or revoked during April 1995.

**Schedule C**

The following Schedule C positions were established during April 1995.

*Consumer Product Safety Commission*

Special Assistant to the Chairman. Effective April 13, 1995.

Special Assistant to the Chairman. Effective April 28, 1995.

Staff Assistant to the Commissioner. Effective April 28, 1995.

*Department of Agriculture*

Confidential Assistant to the Executive Assistant to the Secretary. Effective April 13, 1995.

Deputy Press Secretary to the Director, Office of Public Affairs. Effective April 13, 1995.

Confidential Assistant to the Secretary of Agriculture. Effective April 21, 1995.

*Department of the Air Force (DOD)*

Secretary (Steno/OA) to the General Counsel of the Air Force. Effective April 21, 1995.

*Department of the Army (DOD)*

Staff Assistant to the Secretary of the Army. Effective April 21, 1995.

Confidential Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs). Effective April 24, 1995.

*Department of Commerce*

Confidential Assistant to the Assistant Secretary and Commissioner of Patents and Trademarks. Effective April 4, 1995.

Special Assistant to the Director Effective April 12, 1995.

Special Assistant to the Director, General of the U.S. and Foreign Commercial Service. Effective April 14, 1995.

Special Assistant to the Deputy Under Secretary for Export Administration. Effective April 14, 1995.

Deputy Director of Advance to the Deputy Director of External Affairs. Effective April 14, 1995.

Press Secretary to the Secretary of Commerce. Effective April 14, 1995.

Confidential Assistant to the Press Secretary. Effective April 14, 1995.

Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs. Effective April 14, 1995.

Confidential Assistant to the Deputy Director, Office of Public Affairs. Effective April 14, 1995.

Confidential Assistant to the Press Secretary. Effective April 14, 1995.

Confidential Assistant to the Press Secretary. Effective April 14, 1995.

Deputy Director to the Director, Office of Public Affairs. Effective April 14, 1995.

Deputy Press Secretary to the Press Secretary. Effective April 14, 1995.

Confidential Assistant to the Press Secretary. Effective April 14, 1995.

*Department of Defense*

Secretary (OA) to the Inspector General, Department of Defense. Effective April 21, 1995.

Special Assistant to the Inspector General. Effective April 21, 1995.

Confidential Assistant to the Assistant to the Secretary of Defense for Public Affairs. Effective April 24, 1995.

Personal and Confidential Assistant to the Director Operational Test and Evaluation. Effective April 25, 1995.

Paralegal Specialist to the Judge, U.S. Court of Appeals for Armed Forces. Effective April 26, 1995.

Paralegal Specialist to the Judge, U.S. Court of Military Appeals. Effective April 26, 1995.

*Department of Education*

Director, Congressional Affairs Staff to the Assistant Secretary for Legislation and Congressional Affairs. Effective April 12, 1995.

Confidential Assistant to the Senior Advisor on Education Reform. Effective April 12, 1995.

Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services. Effective April 13, 1995.

Special Assistant to the Assistant Secretary, Office of Postsecondary Education. Effective April 14, 1995.

*Department of Energy*

Special Assistant to the Assistant Secretary for Energy and Renewable Energy. Effective April 7, 1995.

*Department of Health and Human Services*

Speechwriter to the Director of Speechwriting. Effective April 14, 1995.

*Department of Housing and Urban Development*

Field Operations Officer to the Secretary's Representative. Effective April 14, 1995.

Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing. Effective April 24, 1995.

*Department of Justice*

Confidential Assistant to the Assistant Attorney General. Effective April 3, 1995.

Deputy Director, Office of Public Liaison and Intergovernmental Affairs to the Assistant Attorney General for the Office of Legislative Affairs. Effective April 14, 1995.

Legislative Liaison Officer to the Director of Congressional Relations. Effective April 14, 1995.

*Department of Labor*

Special Assistant to the Assistant Secretary for the Office of Congressional and Intergovernmental Affairs. Effective April 7, 1995.

Secretary's Representative to the Associate Director. Effective April 13, 1995.

*Department of the Navy (DOD)*

Staff Assistant to the Assistant Secretary of Navy (Manpower and Reserve Affairs). Effective April 21, 1995.

*Department of State*

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective April 7, 1995.

*Department of Transportation*

Associate Director for Speechwriting and Research to the Assistant to the Secretary and Director of Public Affairs. Effective April 14, 1995.

Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective April 21, 1995.

*Department of the Treasury*

Policy Advisor to the Deputy Under Secretary, Government Financial Policy. Effective April 13, 1995.

Special Assistant to the Chief of Staff. Effective April 13, 1995.

Director, Office of Public Correspondence to the Executive Secretary. Effective April 27, 1995.

*Federal Maritime Commission*

Administrative Assistant to the Counsel to the Chairman. Effective April 3, 1995.

*Interstate Commerce Commission*

Confidential Assistant to the Commissioner. Effective April 21, 1995.

Confidential Assistant to the Chairman. Effective April 21, 1995.

*National Endowment for the Arts*

Special Assistant to the Chairman. Effective April 25, 1995.

*Office of Management and Budget*

Executive Assistant to the Director, Office of Management and Budget. Effective April 25, 1995.

*Small Business Administration*

Regional Administrator, Region V, Chicago, IL, to the Administrator, Small Business Administration. Effective April 14, 1995.

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

**Lorraine A. Green,**

*Deputy Director.*

[FR Doc. 95–13059 Filed 5–26–95; 8:45 am]

BILLING CODE 6325–01–M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP); Announcement of the Competitive Need Limits and Per Capita GNP Limits for 1994; Announcement of the Countries/ Products That Exceeded the Competitive Need Limits in 1994

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of the competitive need limits and per capita GNP limits for 1994 and notice of the countries/ products that will lose GSP privileges on July 1, 1995 because they exceeded the competitive need limits in 1994.

**SUMMARY:** This notice announces the competitive need limits and the per capita GNP limits for 1994. It also lists the countries/products that will become ineligible for GSP on July 1, 1995 because they exceeded the competitive need limits in 1994.

**FOR FURTHER INFORMATION CONTACT:** GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. The telephone number is (202) 395–6971.

**SUPPLEMENTARY INFORMATION:**

**I. Competitive Need Limits**

Section 504(c) of the Trade Act of 1974 (''1974 Act'') (19 U.S.C. 2464(c)) provides that any beneficiary developing country that exports to the United States during the most recent calendar year a quantity of any one GSP

eligible article in excess of (1) $25 million indexed to the nominal growth of U.S. gross national product (GNP) since 1974, or (2) 50 percent of the value of total U.S. imports of the article, must lose GSP privileges for that article not later than July 1 of the next calendar year, unless the President decides to use his discretionary authority to grant a waiver. The competitive need limit for 1994 is $114,099,912.

**II. Reduced Competitive Need Limits**

Section 504(c)(2) of the 1974 Act (19 U.S.C. 2464(c)(2)) provides that periodically the President shall conduct a general review of the GSP program. The purpose of the general review is to determine whether any beneficiary developing country has demonstrated a sufficient degree of competitiveness with respect to any eligible article. If a beneficiary is found to be sufficiently competitive with respect to an article, then the President should apply so-called ''reduced competitive need limits.'' The reduced limits are set at 25 percent of imports instead of 50 percent and a dollar limit indexed to nominal growth of U.S. GNP since 1984, instead of 1974. The reduced competitive need limit for 1994 is $44,250,296.

**III. De Minimis Limits**

Section 504(d)(2) of the 1974 Act (19 U.S.C. 2464(d)(2)) provides that the President may disregard the 50-percent competitive need limit with respect to any eligible article if the value of the total imports of the article during the most recent calendar year did not exceed $5 million, adjusted annually to reflect changes in the U.S. GNP. The *de minimis* limit for 1994 is $13,346,358.

**IV. Per Capita GNP Limits**

Section 504(f) of the 1974 Act (19 U.S.C. 2464(f)) sets forth per capita GNP limits, which are adjusted annually. If, in any calendar year, the per capita GNP of a beneficiary developing country exceeds the per capita GNP limits, then that country must lose GSP privileges, following a two-year phase-out. The per capita GNP limit for 1994 is $11,831.

**V. The Implementation of the Competitive Need Limits**

The GSP program offers duty-free access to the U.S. market for eligible products that are imported from designated beneficiary developing countries. Section 504(c) of the 1974 Act (19 U.S.C. 2464(c) sets forth competitive need limits, which are adjusted annually (see above). If, in any calendar year, exports of an eligible article from a beneficiary developing country exceed the competitive need limits, then that country must lose GSP privileges for that product on July 1 of the next calendar year, unless the President decides to use his discretionary authority to grant a competitive need limit waiver or a *de minimis* waiver.

No annual GSP review process was conducted for 1994, and no competitive need limit waivers or *de minimis* waivers were granted. Therefore, all eligible articles from beneficiary countries that exceeded the competitive need limits in 1994 will lose GSP on July 1, 1995. Accordingly, in Proclamation 6804 of May 22, 1995 (60 FR 27657), the President removed from the GSP program all eligible articles from beneficiary countries that exceeded the competitive need limits in 1994, effective July 1, 1995.

Annexes I and II list the countries that will become ineligible for GSP privileges for certain eligible articles on July 1, 1995 because they exceeded the competitive need limits. While all the countries/products in annexes I and II exceeded the competitive need limits in 1994, the countries/products in annex II were low-trade products that exceeded the 50-percent competitive need limit, but for which the value of total U.S. imports in 1994 were less than the *de minimis* limit of $13,346,358.

ANNEX I: GSP COUNTRIES EXCEEDING THE COMPETITIVE NEED LIMITS IN 1994

| HTSUS | Partner | Description |
|---|---|---|
| 2905.11.20 | Trinidad and Tobago | Methanol. |
| 2933.29.45 | Slovenia | Nonaromatic drugs. |
| 2933.71.00 | Russia | 6-Hexanelactam. |
| 3823.90.40 | Malaysia | Fatty substances. |
| 4107.90.60 | South Africa | Leather of anamals. |
| 7106.92.00 | Chile | Silver. |
| 7115.90.20 | Argentina | articles of silver. |
| 7604.10.50 | Russia | Aluminum bars, rods. |
| 7605.11.00 | Russia | Alluminum wire. |
| 7615.10.10 | Thailand | Aluminum cooking ware. |
| 8401.10.00 | Russia | Nuclear reactors. |
| 8419.90.20 | Brazil | Parts of machinery. |
| 8469.10.80 | Indonesia | Automatic typewriters. |
| 8517.82.40 | Thailand | Facsimile machines. |
| 8519.99.00 | Malaysia | Sound apparatus. |
| 8521.10.90 | Malaysia | Video apparatus. |
| 8527.90.90 | Philippines | Reception apparatus. |
| 8528.10.11 | Malaysia | Color tv receivers. |
| 8528.10.13 | Malaysia | Color tv receivers. |
| 9006.53.00 | Malaysia | Cameras. |
| 9009.12.00 | Thailand | Photocopy apparatus. |

ANNEX II: GSP COUNTRIES EXCEEDING THE 50-PERCENT COMPETITIVE NEED LIMIT IN 1994 AND TOTAL U.S. IMPORTS WERE LESS THAN $13,346,358

| HTSUS | Partner | Description |
|---|---|---|
| 0304.20.50 | Argentina | Hake fillets. |
| 0703.10.20 | Chile | Onion sets. |
| 0708.10.20 | Guatemala | Peas. |
| 0708.10.40 | Guatemala | Peas. |

ANNEX II: GSP COUNTRIES EXCEEDING THE 50-PERCENT COMPETITIVE NEED LIMIT IN 1994 AND TOTAL U.S. IMPORTS WERE LESS THAN $13,346,358—Continued

| HTSUS | Partner | Description |
|---|---|---|
| 0709.10.00 | Chile | Artichokes. |
| 0709.20.10 | Peru | Asparagus. |
| 0710.22.15 | Guatemala | Lima beans. |
| 0710.29.05 | Turkey | Chickpeas. |
| 0710.29.30 | Dominican Republic | Pigeon peas. |
| 0710.80.50 | Dominican Republic | Tomatoes. |
| 0710.80.65 | Guatemala | Brussels sprouts. |
| 0710.80.93 | Guatemala | Okra. |
| 0711.30.00 | Turkey | Capers. |
| 0711.40.00 | Sri Lanka (Ceylon) | Cucumbers. |
| 0714.10.00 | Costa Rica | Cassava. |
| 0714.20.00 | Dominican Republic | Sweet potatoes. |
| 0714.90.10 | Costa Rica | Fresh dasheens. |
| 0802.50.20 | Turkey | Pistachios. |
| 0802.50.40 | Turkey | Pistachios. |
| 0804.50.80 | Thailand | Guavas, mangoes. |
| 0811.20.20 | Chile | Raspberries. |
| 0811.20.40 | Chile | Blackberries. |
| 0811.90.50 | Costa Rica | Pineapples. |
| 0811.90.55 | Guatemala | Melons. |
| 0813.40.10 | Thailand | Papayas. |
| 0813.40.80 | Thailand | Tamarinds. |
| 1106.30.20 | Ecuador | Banana flour. |
| 1519.11.00 | Malaysia | Stearic acid. |
| 1519.12.00 | Malaysia | Oleic acid. |
| 1601.00.40 | Brazil | Sausages. |
| 1604.14.50 | Thailand | Tunas, skipjack. |
| 1604.16.30 | Morocco | Anchovies. |
| 1604.30.20 | Russia | Caviar. |
| 1605.10.05 | Thailand | Crab products. |
| 1701.99.05 | Colombia | Cane/beet sugar. |
| 1701.99.10 | Colimbia | Cane/beet sugar. |
| 1702.90.35 | Belize | Invert molasses. |
| 1703.90.30 | Lebanon | Molasses. |
| 1902.11.40 | Thailand | Uncooked pasta. |
| 2005.80.00 | Thailand | Sweet corn. |
| 2007.99.40 | Thailand | Pineapple jam. |
| 2007.99.48 | Argentina | Apple pastes. |
| 2008.19.30 | Turkey | Pignolia. |
| 2008.50.20 | Argentina | Apricot pulp. |
| 2008.99.28 | Turkey | Figs. |
| 2008.99.35 | Thailand | Lychees. |
| 2106.90.52 | Philippines | Juices. |
| 2202.90.36 | Colimbia | Juice. |
| 2202.90.37 | Dominican Republic | Mixed juices. |
| 2207.10.30 | Ecuador | Ethyl alcohol. |
| 2208.90.10 | Trinidad and Tobago | Bitters. |
| 2208.90.70 | Russia | Vodka. |
| 2309.90.70 | Hungary | Vitamin B12 feed. |
| 2401.10.21 | Dominican Republic | Wrapper tobacco. |
| 2401.10.29 | Honduras | Tobacco. |
| 2401.20.45 | Indonesia | Tobacco. |
| 2401.20.55 | Indonesia | Tobacco. |
| 2516.90.00 | South Africa | Building stone. |
| 2804.29.00 | Ukraine | Rare gases. |
| 2805.40.00 | Russia | Mercury. |
| 2825.30.00 | South Africa | Vanadium oxides. |
| 2825.70.00 | Chile | Molybdenum oxides. |
| 2840.11.00 | Turkey | Refined borax. |
| 2843.21.00 | Chile | Silver nitrate. |
| 2903.14.00 | Brazil | Carbon tetrchlrde. |
| 2903.23.00 | Brazil | Tetrachloro. |
| 2907.15.10 | Russia | alpha-Naphthol. |
| 2910.20.00 | Brazil | Methyloxirane. |
| 2915.34.00 | Venezuela | Isobutyl aceta. |
| 2915.35.00 | Venezuela | 2-Ethoxyethyl. |
| 2917.14.10 | Brazil | Maleic anhydrid. |
| 2917.37.00 | Romania | Dimethyl tereph. |
| 2933.40.08 | Hungary | 4,7-Dichlor. |
| 2938.10.00 | Brazil | Rutoside. |
| 3806.30.00 | Argentina | Ester gums. |

ANNEX II: GSP COUNTRIES EXCEEDING THE 50-PERCENT COMPETITIVE NEED LIMIT IN 1994 AND TOTAL U.S. IMPORTS WERE LESS THAN $13,346,358—Continued

| HTSUS | Partner | Description |
|---|---|---|
| 3920.93.00 | India | Plates, sheets. |
| 4006.10.00 | Brazil | Rubber. |
| 4104.39.20 | Thailand | Buffalo leather. |
| 4106.19.30 | Pakistan | Goat leather. |
| 4106.20.60 | Pakistan | Goat leather. |
| 4202.22.35 | Philippines | Handbags. |
| 4205.00.60 | Argentina | Reptile leather. |
| 4412.19.30 | Russia | Plywood. |
| 4412.19.40 | Indonesia | Plywood. |
| 4412.99.40 | Indonesia | Plywood. |
| 4421.90.10 | Honduras | Wood dowel pins. |
| 4823.90.20 | Philippines | Papier-mache. |
| 5209.51.30 | India | Cotton fabrics. |
| 5307.20.00 | India | Yarn of jute. |
| 5607.30.20 | Philippines | Twine, cordage. |
| 5609.00.20 | Philippines | Article of yarn. |
| 5702.99.20 | India | Carpets. |
| 5703.90.00 | India | Carpets. |
| 6501.00.60 | Czech Republic | Hat forms. |
| 7002.10.20 | Malaysia | Glass in balls. |
| 7109.00.00 | Chile | Base metals. |
| 7113.20.21 | Oman | Rope necklace. |
| 7114.19.00 | Chile | Goldsmith wares. |
| 7202.21.10 | Macedonia (Skopje) | Ferrosilicon. |
| 7319.20.00 | Malaysia | Safety pins. |
| 7403.12.00 | Peru | Wire bars. |
| 7407.29.15 | Chile | Copper profiles. |
| 7603.10.00 | Bahrain | Aluminum powders. |
| 7614.90.20 | Venezuela | Electrical cable. |
| 7614.90.50 | Venezuela | Stranded wire. |
| 8107.90.00 | Bulgaria | Cadmium. |
| 8112.11.60 | Kazakhstan | Beryllium. |
| 8112.91.50 | Chile | Rhenium. |
| 8213.00.60 | Brazil | Pinking Shears. |
| 8402.20.00 | Colombia | Water boilers. |
| 8414.90.30 | Slovenia | Stators, rotors. |
| 8450.90.40 | Brazil | Furniture. |
| 8483.50.40 | Malaysia | Awning pulleys. |
| 8519.21.00 | Malaysia | Record players. |
| 8519.31.00 | Malaysia | Turntables. |
| 8528.10.04 | Hungary | TV receivers. |
| 8528.10.34 | Malaysia | TV receivers. |
| 8802.50.90 | Russia | Spacecraft. |
| 9018.11.60 | Argentina | Circuit assemblies. |
| 9102.29.04 | Philippines | Wrist watchhead. |
| 9303.90.80 | Russia | Firearms. |
| 9401.90.15 | Czech Republic | Parts of seats. |
| 9506.61.00 | Philippines | Lawn-tennis balls. |
| 9606.29.20 | Thailand | Button of resin. |
| 9614.20.60 | Turkey | Smoking pipes. |
| 9614.20.80 | Turkey | Smoking pipes. |

**Frederick L. Montgomery,**

*Chairman, Trade Policy Staff Committee.*

[FR Doc. 95–13282 Filed 5–25–95; 3:44 pm]

BILLING CODE 3901–01–M

## POSTAL RATE COMMISSION

**[Order No. 1058]**

**[Docket No. A95–12]**

## Rowletts, Kentucky 42772 (C.W. Richardson, et al., Petitioners; Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued May 23, 1995.

*Docket Number:* A95–12.

*Name of Affected Post Office*: Rowletts, Kentucky 42772.

*Name(s) of Petitioner(s):* C.W. Richardson, *et al.*

*Type of Determination:* Closing.

*Date of Filing of Appeal Papers:* May 15, 1995.

*Categories of Issues Apparently Raised:*

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues

than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

*The Commission orders:*

(a) The Postal Service shall file the record in this appeal by May 30, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

**Margaret P. Crenshaw,**

*Secretary.*

**Appendix**

Rowletts, Kentucky 42772 Docket No. A95–12

May 15, 1995—Filing of Appeal letter.

May 23, 1995—Commission Notice and Order of Filing of Appeal.

June 9, 1995—Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).

June 19, 1995—Petitioners' Participant Statement or Initial Brief (*see* 39 CFR 3001.115(a) and (b)).

July 10, 1995—Postal Service's Answering Brief (*see* 39 CFR 3001.115(c)).

July 24, 1995—Petitioners' Reply Brief should Petitioner choose to file one (*see* 39 CFR 3001.115(d)).

July 31, 1995—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).

September 12, 1995 Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5))

[FR Doc. 95–13093 Filed 5–26–95; 8:45 am]

BILLING CODE 7710–FW–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–35742; File No. SR–CBOE–95–04]**

## Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to Certain Procedures Regarding Trading Rotations and Opening Procedures

May 19, 1995.

### I. Introduction

On January 18, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed the following proposed rule changes with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder:[2] (1) Granting two concurring Floor Officials the discretion to call for one or more trading rotations on any business day pursuant to Rule 6.2; (2) codifying in Rule 6.2, the current practice of allowing two concurring Floor Officials the discretion to delay commencement of the opening rotation in any class of options; (3) granting two concurring Floor Officials the discretion to delay the commencement of the opening rotation for index options, and deleting the requirement that any delays in the opening rotation must be in five minute intervals, pursuant to Interpretation .03 to Rule 24.13; (4) granting Order Book Officials the discretion to determine the appropriate rotation order and manner, or to deviate from a previously established rotation policy or procedure, pursuant to Rule 6.2; (5) adding Interpretation .04 to Rule 6.2 to specify that the decision to conduct an abbreviated rotation is one, but not the only example of a type of rotation modification that may be employed; (6) granting the Order Book Official the authority to prescribe that two or more trading rotations be employed simultaneously pursuant to Rule 6.2; (7) granting two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time) pursuant to Interpretation .02 to Rule 6.2; (8) clarifying that the factors, provided in Interpretation .02 to Rule 6.2, to consider in determining whether to commence more than one trading rotation after 3:10 p.m., are not limited to those enumerated; (9) clarifying that although closing rotations are not ordinarily conducted in expiring series of index options, such closing rotations are not absolutely prohibited pursuant to Interpretation .03 to Rule 6.2; (10) granting two concurring Floor Officials the authority to deviate from the procedures for closing rotations pursuant to Interpretation .03 to Rule 6.2; (11) granting Order Book Officials the discretion to determine the appropriate rotation order and manner, or to deviate from a previously established rotation policy or procedure for index options pursuant to Rule 24.13; and (12) deleting a portion of Rule 24.13 that requires an Order Book Official to open the nearest expiration series of index options before opening the remaining series in a manner she or he deems appropriate.

Notice of the proposal was published for comment and appeared in the **Federal Register** on February 21, 1995.[3] No comment letters were received on the proposed rule changes. This order approves the Exchange's proposal.

### II. Description of Proposal

The CBOE proposes to amend its rules relating to certain procedures regarding trading rotations[4] and opening procedures.[5] First, CBOE proposes to amend Rule 6.2 to grant two concurring Floor Officials discretion to direct that one or more trading rotations be employed on any business day. Currently, Rule 6.2 grants only the Floor Procedures Committee this discretion. CBOE believes that it is impractical to assemble the entire Floor Procedures Committee for such as intra-day decision. CBOE states that under Rule 6.6(b)(iii), two concurring Floor Officials already have the discretion to call a trading rotation after the declaration of a fast market. By amending Rule 6.2, this discretion would not be limited to fast market situations.

CBOE proposes to further amend Rule 6.2 by codifying the current practice of allowing two concurring Floor Officials to delay commencement of the opening rotation in any class of options in the interests of a fair and orderly market. CBOE believes that the rules should expressly grant Floor Officials the power to react to market conditions and circumstances by delaying an opening rotation when it is in the interests of a fair and orderly market. Interpretation .01(b) to Rule 6.2 currently grants two

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 35369 (February 14, 1995), 60 FR 9702 (February 21, 1995).

[4] A ''trading rotation'' is a series of very brief time periods during each of which bids, offers, and transactions in only a single, specified option contract can be made. *See* CBOE Rule 6.2.

[5] *See* CBOE Rules 6.2 and 24.13.

concurring Floor Officials the authority to conduct the rotation in a manner other than that set forth in the Rule, but Rule 6.2 does not state expressly that the Floor Officials may also delay the opening rotation.

Similarly, CBOE proposes to amend Interpretation .03 to Rule 24.13, by granting two concurring Floor Officials greater discretion to delay the commencement of the opening rotation for index options, and by deleting the requirement that any delays in the opening rotation must be in five (5) minute intervals. Rather than limiting the circumstances and the time period in which two concurring Floor Officials may delay the opening, amended Interpretation .03 would permit Floor Officials to delay the opening rotation at their discretion in the interests of a fair and orderly market. The circumstances outlined in current Interpretation .03 to Rule 24.13, in which two concurring Floor Officials may delay the opening, would remain as factors that Floor Officials may consider in deciding whether to delay the opening rotation. If Floor Officials do in fact delay the opening rotation, CBOE believes that these officials should be granted greater discretion to end the delay and commence the opening before the five (5) minute interval has lapsed, if the circumstances warrant that decision. In addition, CBOE believes that for lengthy delays, it is impractical to require two Floor Officials to remain at the index options post for the sole purpose of declaring successive five minute delays.

CBOE believes that these amendments are consistent with the amendments proposed for Rule 6.2, which grant two Floor Officials the authority to delay the opening rotation in any class of options in the interests of a fair and orderly market. CBOE argues that because current Interpretation .01 to Rule 24.13 provides that the procedures for modification of a rotation and other aspects of the rotation set forth in Rule 6.2 are applicable to index options, the authority regarding delays in opening contained in Rule 6.2 likewise should apply to index options.

CBOE also proposes to amend Rule 6.2 to grant Order Book Officials more discretion regarding the rotation order and manner. CBOE proposes that if the appropriate Floor Procedures Committee [6] has not acted to establish any policy applicable to the particular class of options in question, then the Order Book Official would be authorized to determine the appropriate order and manner for conducting the rotation. CBOE believes this aspect of the rule change would allowed Order Book Officials to respond to particular circumstances the Floor Procedures Committee has not considered and to conduct the rotation as is appropriate under those circumstances.

CBOE also proposes to further amend Rule 6.2, granting the Order Book Official, with the approval of two concurring Floor Officials, the authority to deviate from a rotation policy or procedure previously established by the appropriate Floor Procedures Committee. The Exchange believes that in certain circumstances, it may be appropriate to deviate from the established procedure, but it would be impractical to assemble the Floor Procedure Committee for an intra-day decision allowing such a deviation. Rule 6.2, as amended, would allow two concurring Floor Officials to act for the entire committee and approve or disapprove an Order Book Official's proposed deviation from the previously established rotation policy or procedure. Currently, pursuant to Interpretation .01(b) to Rule 6.2, the Order Book Official, with the approval of two concurring Floor Officials or the Floor Procedures Committee, may conduct an *opening* rotation in a manner other than that set forth in Interpretation .01(b). By amending Rule 6.2, CBOE proposes to extend this existing policy to *all* rotations.

CBOE also proposes to add Interpretation .04 to Rule 6.2 to specify that the decision to conduct an abbreviated rotation is one of the deviations permitted under the amended rule. Interpretation .04 provides an example of a type of rotation modification, or deviation from rotation policy or procedure that may be employed, but it is not intended to be an exclusive list.

CBOE proposes to further amend Rule 6.2 so that the Order Book Official, or the Floor Procedures Committee, may prescribe that two or more trading rotations be employed simultaneously. CBOE believes that it would be impractical to assemble the Floor Procedures Committee for an intra-day decision regarding simultaneous trading rotations.

CBOE proposes to amend Interpretation .02 to Rule 6.2 to grant two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time), and to clarify that the reasons stated for allowing two concurring Floor Officials to conduct a rotation after the close of trading are not exclusive. While the amended interpretation indicates that, in general, no more than one trading rotation will be commenced after 3:10 p.m., CBOE believes that it is in the interests of a fair and orderly market to grant two concurring Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances. The amended interpretation does not enumerate all the possible underlying conditions and circumstances for commencing more than one trading rotation after the close of trading. Those listed include the current practice of employing a trading rotation after the end of normal trading hours in connection with a year-end rotation or due to the restart of a rotation which is already in progress. CBOE believes it may be necessary to continue the rotation after the normal close of trading in order to complete the rotation for circumstances including, but not limited to, those stated in the amended interpretation.

Interpretation .03 to Rule 6.2 currently provides that ''a closing rotation for an expiring series of index options *shall* not be employed.'' (Emphasis Added.) Although closing rotations are not ordinarily employed in expiring series of index options, CBOE believes it is inappropriate to prohibit closing rotations for such series. CBOE, therefore, proposes to amend the interpretation to state that a closing rotation for such expiring series ''is not ordinarily'' employed. CBOE believes the proposed amendment to Interpretation .03 is necessary to clarify that, unlike the case with equity options, closing rotations are not ordinarily conducted in expiring series of index options, but that such closing rotations are not absolutely prohibited.[7]

Interpretation .03 to Rule 6.2 would also be amended to grant two concurring Floor Officials the authority to deviate from the procedures for closing rotations if they determine such deviation is in the interests of a fair and orderly market. Again, CBOE believes that it is in the interests of a fair and orderly market to allow two concurring Floor Officials to exercise their

[6] The ''appropriate'' Floor Procedures Committee is the committee that makes policy regarding the particular class of options in question. *See* Securities Exchange Act Release No. 35369 (February 14, 1995), 60 FR 9702 (February 21, 1995).

[7] CBOE believes that a system malfunction or a major announcement in the markets late in the trading day, among other things, may require a closing rotation for expiring series of index options in order to accommodate any order flow problems resulting from such occurrences. Telephone conversation between Edward Joyce, CBOE, Michael Meyer, Attorney, Schiff, Hardin, and Waite, Michael Walinskas, Branch Chief, and John Ayanian, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, on February 13, 1995.

judgment in response to market conditions and circumstances.

Consistent with the above changes to Rule 6.2 regarding the order and manner of the rotation, CBOE proposes to amend Rule 24.13 to give the Order Book Official greater discretion to determine the appropriate order and manner for conducting the rotation for index options. Similar to amended Rule 6.2, the Floor Procedures Committees that make policy for an index option would have the authority to set policy regarding the order and manner of the opening rotation. If the Floor Procedures Committee has not acted to establish a policy applicable to a particular situation, then the Order Book Official would be permitted to determine the appropriate order and manner for conducting the opening rotation. Again, as similarly proposed in amended Rule 6.2, CBOE proposes to further amend Rule 24.13 to grant the Order Book Official the authority to deviate from the appropriate Floor Procedures Committee's established procedure regarding the order and manner of the opening rotation so long as two concurring Floor Officials approve such as a deviation. CBOE believes that it would be impractical to assemble a Floor Procedures Committee for an intra-day decision allowing a deviation from established opening rotation policy or procedure.

CBOE would further amend Rule 24.13 by deleting the provisions that require the Order Book Official to open the nearest expiration series first and thereafter open the remaining series in a manner he deems appropriate. CBOE believes that the Order Book Official should have the discretion not to open with the nearest expiration series if a different order would be appropriate under the circumstances.

### III. Commission Finding and Conclusions

The Commission finds that the proposed rule changes are 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) of the Act.[8] Specifically, the Commission believes that the proposed rule changes are designed 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 promote just and equitable principles of trade.

First, the Commission believes that it is appropriate to amend Rules 6.2 and 24.13 to grant the Order Book Official greater discretion regarding the rotation order and manner. The Commission notes, however, that the discretion of the Order Book Official is not absolute. The Order Book Official may determine, without subsequent approval, the appropriate order and manner for conducting the rotation only if the appropriate Floor Procedures Committee has not acted to establish any policy applicable to the particular class of options in question. The Order Book Official must otherwise obtain approval from two concurring Floor Officials to deviate from the order and manner for conducting the rotation for a particular class of options already established by the appropriate Floor Procedures Committee. The Commission believes the proposed amendments to Rule 6.2 and Rule 24.13 are reasonable in view of the CBOE's intended goal to allow Order Book Officials and Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances.

The Commission also believes that it is appropriate to add Interpretation .04 to Rule 6.2 to state that the decision to conduct an abbreviated rotation is one example of a deviation from rotation policy or procedure and one of the modifications of rotation order and manner that is permitted under Rule 6.2.

Further, the Commission believes that it is appropriate to amend Rule 6.2 to afford an Order Book Official the discretion to authorize two or more simultaneous trading rotations. The Commission also finds that it is appropriate to amend Rule 6.2 to grant two concurring Floor officials the discretion to direct that one or more trading rotations be employed on any given business day. Both situations involve an intra-day decision that, under current Rule 6.2, would require the entire Floor Procedures Committee to assemble. The Commission agrees that it may be impractical to assemble the Floor Procedures Committee for such intra-day decisions. The Commission also believes that by granting Order Book Officials and Floor Officials the discretion to evaluate current market conditions and employ the appropriate number of rotations in response to these conditions, these officials will be positioned to make informed decisions regarding the manner in which a rotation can maintain or contribute to the maintenance of a fair and orderly market.

Further, the Commission believes that the Exchange's proposal to amend Interpretation .02 to Rule 6.2 to grant two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time) to maintain a fair and orderly market, is a reasonable response to the Exchange's attempt to respond to current market conditions. The interpretation is further amended to clarify that the factors to be considered in determining whether to commence more than one trading rotation after 3:10 p.m. are not limited to those enumerated. Although the amended interpretation grants two concurring Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances, the Commission supports CBOE's policy that, in general, no more than one trading rotation will be commenced after 3:10 p.m.

The Commission also believes that it is reasonable to amend Rule 6.2 by codifying the current practices of allowing two concurring Floor Officials to delayed commencement of the opening rotation in any class of options to maintain a fair and orderly market. The proposed amendment to Rule 6.2 will expressly grant two concurring Floor Officials the power to react to market conditions and circumstances by delaying the opening rotation. The Commission believes that the proper exercise of this authority should contribute to the protection of investors and the public interest by enabling Floor Officials to respond to current market conditions in a timely manner.

For the same reason, the Commission also believes that it is appropriate to amend Interpretation .03 to Rule 24.13 to grant two concurring Floor Officials greater discretion to delay the commencement of the opening rotation for index options by deleting the requirement that any delays in the opening rotation for index options be in five minute intervals. Specifically, the Commission notes that by deleting this five minute interval requirement, Floor Officials will be able to react more promptly to current market conditions and commence the opening rotation in an interval shorter than five minutes if the circumstances warrant. By granting Floor Officials the flexibility to immediately commence an opening rotation, investors may be able to reduce their exposure to price fluctuations occurring when the index options markets have a delayed opening and the stock and futures markets are open. The Commission further notes that for lengthy delays, it may be impractical to require two Floor Officials to continuously remain at the index options post for the purpose of declaring

[8] 15 U.S.C. 78f(b)(5).

successive five minute delays. The proposed rule change will provide the Exchange's Floor Officials more flexibility to declare delayed openings in index options in appropriate circumstances.

Furthermore, the Commission believes it is appropriate to amend Interpretation .03 to Rule 6.2 to state that a closing rotation for expiring series of index options ''is not ordinarily'' employed. Under the current interpretation, a closing rotation for an expiring series of index options ''*shall* not be employed.'' The Commission believes that the proposed amendment to Interpretation .03 should provide CBOE Floor Officials the opportunity to respond to extraordinary circumstances including, but not limited to, a system malfunction or a major announcement in the markets late in the trading day.[9]

For the same reasons, the Commission also believes that it is appropriate to amend Interpretation .03 to Rule 6.2 to grant two concurring Floor Officials the authority to deviate from the procedures for closing rotations if they determine such deviation is to maintain a fair and orderly market.

Finally, the Commission believes it is appropriate to delete from Rule 24.13 the requirement that an Order Book Official open the nearest expiration series of index options before opening the remaining series. The Commission believes that the proposed rule change, by permitting the Order Book Official to exercise his judgment in response to market conditions or circumstances, is consistent with the purposes of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule changes (File No. SR–CBOE–95–04) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13072 Filed 5–26–95; 8:45 am]

**BILLING CODE 8010–01–M**

[9] *See supra* note 7.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

**[Release No. 34–35752; file No. SR–PTC–95–04]**

## Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Changing Custodians for the Safekeeping of Physical Certificates on Deposit With the Participants Trust Company

May 22, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 1, 1995, the Participants Trust Company (''PTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PTC–95–04) as described in Items I, II, and III below, which Items have been prepared primarily by PTC. On May 9, 1995, PTC filed an amendment to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change concerns PTC's change in custodians for the safekeeping of physical certificates on deposit with PTC.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

On April 18, 1995, PTC entered into a custody agreement with The Depository Trust Company (''DTC'') providing for the safekeeping by DTC of physical certificates on deposit with PTC. On the same date, PTC amended its custody agreement with Chemical Bank providing for the termination of the current custody arrangements with Chemical Bank. DTC began providing custodial services upon the completion of the transfer of the physical certificates to DTC on May 8, 1995. The custodial services to be provided by DTC are substantially similar to the services previously provided by Chemical Bank at considerable savings to PTC and its participants. The change in custodians was authorized by PTC's Board of Directors after completion of a due diligence review of DTC's facilities and procedures. DTC currently has approximately $8.3 trillion in securities under its custody and control in connection with the custodial services it offers to its own participants.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[4] and the rules and regulations thereunder because it provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

*(B) Self-Regulatory Organization's Statements on Burden on Competition*

PTC does not believe that the proposed rule change imposes any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

PTC has neither solicited nor received comments on this proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[5] and subparagraph (e)(3) of Rule 19b–4[6] thereunder because the proposed rule change concerns the administration of PTC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] As originally filed, the proposal incorrectly stated that the effective date of the transfer of securities was to be completed on or about May 8, 1996. The amendment set forth the correct date as May 8, 1995. Letter from Leopold S. Rassnick, Senior Vice President, General Counsel, and Secretary, PTC, to Jonathan Katz, Secretary, Commission (May 9, 1995).

[3] The Commission has modified the text of the summaries prepared by PTC.

[4] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[5] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[6] 17 U.S.C. 240.19b–4(e)(3) (1994).

**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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–95–04 and should be submitted by June 20, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13073 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–35739; File No. SR–PHILADEP–95–02]**

## Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of A Proposed Rule Change to Modify the Philadelphia Depository Trust Company's Interface With The Depository Trust Company's Institutional Delivery System

May 19, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 24, 1995, the Philadelphia Depository Trust Company (''PHILADEP'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PHILADEP–95–02) as described in Items I and II below, which Items have been prepared primarily by PHILADEP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

PHILADEP proposes to modify its interface with The Depository Trust Company's (''DTC'') Institutional Delivery (''ID'') system to provide PHILADEP participants with the ability to send and receive trade confirmations and affirmations on an interactive basis and to provide participants greater control over certain risks resulting from incorrectly inputted trade data.[2] PHILADEP also proposes to modify the interface to facilitate the interactive transmission of certain trade reports between DTC and PHILADEP.

**II. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, PHILADEP included statements concerning the purpose of and 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. PHILADEP has prepared summaries, as set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

DTC's ID system allows the parties involved in an institutional trade (*e.g.*, broker-dealer, institution, and custodian bank) to confirm, affirm, and settle the trade. The confirmation and affirmation process helps to reduce the circumstances where trades will not settle because a party ''does not know'' (''DKs'') the trade. PHILADEP has been operating an interface with DTC for the settlement of institutional trades for several years, and its interface with DTC's ID system provides PHILADEP participants a single channel to electronically coordinate all post-trade activity among broker-dealers, institutions, and custodians from trade confirmation through final settlement. DTC recently implemented enhancements to its ID system to provide users with the capability of accomplishing all ID system processing on an interactive basis throughout a business day while also providing participants with the option to continue transmissions in batch mode.[4]

The purpose of PHILADEP's proposed rule change is to modify its interface with DTC's ID system to provide PHILADEP participants with the ability to send and receive trade confirmations and affirmations on an interactive basis and to provide participants greater control over certain risks resulting from incorrectly inputted trade data. When entering trade data into the ID system, PHILADEP broker-dealer participants will have to assign and enter a unique broker-dealer confirm number corresponding to each ID trade that the broker-dealer submits. The ID system will not accept duplicate broker-dealer confirm numbers, and it will reject the trade if (i) the PHILADEP participant omits the confirmation number or (ii) the confirmation number matches an existing ID trade. ID system users that are participants of both DTC and PHILADEP will continue to have the ability to initially submit the trade details to PHILADEP and to affirm directly with DTC or with PHILADEP.

PHILADEP participants also will be required to comply with the modified procedures for cancelling a trade previously entered into the ID system. The ID system does not allow participants to ''back-out'' a trade; therefore, participants must cancel it by providing the confirmation number of the existing ID trade being cancelled and by entering the appropriate reason code for cancelling the trade. PHILADEP participants can no longer enter a numerical value of all nines in the ''Other Charges'' data field to signify a trade cancellation.

Finally, PHILADEP also proposes to modify the interface to facilitate the interactive transmission of certain trade reports between DTC and PHILADEP. PHILADEP will be able to receive reports of affirmed and unaffirmed trades as often as needed from DTC and will provide such reports to its participants.

PHILADEP believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because modifying PHILADEP's interface with DTC's ID system to allow for the interactive receipt and delivery of trade confirmations and affirmations and for

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[7] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Some participants may continue to transmit to PHILADEP in batch mode; however, PHILADEP will process interactively with DTC.

[3] The Commission has modified the text of the summaries submitted by PHILADEP.

[4] For a description of DTC's enhancements to its ID system to provide for interactive processing capabilities, refer to Securities Exchange Act Release No. 34199 (June 10, 1994), 59 FR 31660 [File No. SR–DTC–94–04] (granting accelerated approval of a proposed rule change).

the interactive receipt and distribution of certain trade reports will facilitate the prompt and accurate clearance and settlement of securities transactions.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

PHILADEP does not believe that the proposed rule change will impact or impose a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments have been solicited or received. PHILADEP will notify the Commission of any written comments received.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

Section 17A(b)(3)(F)[5] of the Act requires the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to provide for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that PHILADEP's proposal to modify its interface with DTC's ID System to enable interactive communication should help cooperation and coordination among PHILADEP and DTC and the parties involved in institutional trades. The Commission further believes that the proposed interactive capability is consistent with PHILADEP's obligation to provide for the prompt and accurate clearance and settlement of securities transactions because it should help PHILADEP participants to settle institutional trades in a T+3 settlement cycle, which will be the standard settlement time for most broker dealer trades beginning June 7, 1995.[6] Currently, institutional trades settle on a T+5 cycle.

PHILADEP has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because timely settlement of institutional trades is critical to the successful conversion to T+3 and accelerated approval of the proposed rule change will allow PHILADEP participants to utilize and become familiar with the interactive capabilities available through PHILADEP's modified interface with DTC's ID system prior to the implementation of T+3 settlement.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making such submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of PHILADEP. All submissions should refer to File No. SR–PHILADEP–95–02 and should be submitted by June 20, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PHILADEP–95–02) be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[7]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13074 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[6] For a detailed description and discussion of the conversion to a three business day settlement cycle, refer to Securities Exchange Act Release Nos. 33023 (October 13, 1993) 58 FR 52891 [File No. S7–5–93] (adoption of Commission Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (changing effective date from June 1, 1995, to June 7, 1995).

[7] 17 CFR 200.30–3(a)(12) (1994).

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**[Release No. IC—21087; International Series Release No. 812; 812–7846]**

## Citibank, NA., et al.; Notice of Application

May 22, 1995.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (''1940 Act'').

**APPLICANTS:** Citibank, N.A. (''Citibank'') and Citicorp.

**RELEVANT 1940 ACT SECTIONS:** Exemption requested under section 6(c) from section 17(f) and rule 17F–5.

**SUMMARY OF APPLICATION:** Applicants seek conditional exemptive relief from section 17(f) of the 1940 Act and rule 17f–5 thereunder with respect to two forms of foreign custody arrangements. The requested exemption would amend an existing order (the ''1992 Order'') [1] allowing Citibank, acting as custodian or subcustodian, to deposit the securities of United States investment companies with certain foreign subsidiaries of the Applicants. The requested exemption also would allow Citibank to make available direct custody arrangements between United States investment companies and certain foreign subsidiaries of the Applicants.

**FILING DATES:** The application was filed on January 7, 1992, and was amended and restated on September 8, 1992, May 19, 1993, November 21, 1994, April 24, 1995, and May 22, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1995, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Caroline F. Marks, Esq., GTS-Legal, 111 Wall Street, 15th Floor, Zone 9, New York, New York 10043.

**FOR FURTHER INFORMATION CONTRACT:** H.R. Hallock, Jr., Special Counsel, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management) .

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

[1] Investment Company Act Release Nos. 18710 (May 15, 1992) (notice) and 18782 (June 12, 1992) (order).

**Applicants' Representations**

*A. Background*

1. Citibank, a United States national banking association, is a wholly-owned subsidiary of Citicorp, a Delaware bank holding company. Citibank operates an extensive custodian network through its branches and through its own subsidiaries and subsidiaries of Citicorp, as well as unaffiliated correspondent banks. As of December 31, 1993, Citibank had approximately $648 billion in assets under custody.

2. In 1987, the SEC exempted Citibank (the ''1987 Order'')[2] from section 17(f) of the 1940 Act to permit it, as the custodian of the securities and other assets (the ''Securities'') of any registered management investment company, other than an investment company registered under section 7(d) of the 1940 Act, or as subcustodian of the Securities of such investment companies for which any other entity is acting as custodian, to deposit such Securities under custodial arrangements (the ''Agency Custody Arrangements'') with certain specified foreign subsidiaries of Citibank (the ''Citibank Subsidiaries'') or Citicorp (the ''Citicorp Subsidiaries'' and, together with the Citibank Subsidiaries, the ''Foreign Subsidiaries'').

3. In 1990, the SEC exempted Citibank (the ''1990 Order'')[3] from section 17(f) to permit it, acting as custodian or subcustodian, to maintain the Securities of such investment companies with several additional Foreign Subsidiaries. In the 1992 Order, the SEC exempted Citibank to permit it to maintain the Securities of such investment companies with certain additional Foreign Subsidiaries and to eliminate the requirement of the 1987 and 1990 Orders that each Foreign Subsidiary be a signatory to the custody agreement.

4. Each of the Foreign Subsidiaries currently providing custodial services to U.S. Investment Companies is, and any additional Foreign Subsidiary providing such services in the future will be, a banking institution or trust company incorporated under the laws of a country other than the United States and regulated as such by that country's government or an agency thereof. Each of these Foreign Subsidiaries is, or will be, experienced, capable and well qualified to provide such services.

[2] Investment Company Act Release Nos. 15580 (Feb. 13, 1987) (notice) and 15617 (Mar 11, 1987) (order).

[3] Investment Company Act Release Nos. 17329 (Feb. 1, 1990) (notice) and 17360 (Feb. 28, 1990) (order).

*B. Relief Requested*

1. Applicants seek exemptive relief to allow 14 Citibank Subsidiaries that were granted relief in the 1992 Order[4] to act as custodians for any registered management investment company, incorporated or organized under the laws of the United States or a state thereof (a ''U.S. Investment Company'') under direct contractual arrangements with such U.S. Investment Companies or their custodians (the ''Direct Custody Arrangements''), as well as under the Agency Custody Arrangements referred to above. Applicants also seek exemptive relief for the Direct and Agency Custody Arrangements with respect to one additional Citibank Subsidiary, Citibank a.s. in the Czech Republic. Each of these 15 Citibank Subsidiaries is a majority-owned or wholly-owned subsidiary of Citibank.

2. In addition, Applicants seek relief to modify the Agency Custody Arrangements permitted by the 1992 Order to provide for the Citicorp guarantee described in paragraphs 9 through 11 below and set forth in Conditions 3(b), 5(c) and 9 below. Finally, Applicants seek to have any order granting relief with respect to the Agency or Direct Custody Arrangements apply to any other Foreign Subsidiary in the future that does not meet the minimum shareholders' equity requirement of rule 17f-5,[5] except that the Direct Custody Arrangements would apply to the Citicorp Subsidiaries only at such time as direct custody services are to be offered by them in accordance with applicable law.[6]

3. Applicants intend that may order granting the relief requested by the application supersede the 1987, 1990, and 1992 Orders and provide a single comprehensive order covering both the Direct and Agency Custody Arrangements.

[4] Citibank (Channel Islands) Limited; Citibank, S.A. in France; Citicorp Investment Bank (The Netherlands) N.V.; Citibank (Zaire) S.A.R.L., Citibank Zambia Limited; Citicorp Nominees Pty. Limited in Australia; Citibank, Nominees (New Zealand) Limited; Citibank Portugal, S.A., Banco de Honduras S.A.; Citibank Budapest Rt.; Citibank-Maghreb in Morocco; Citibank (Trinidad & Tobago) Limited; Cititrust Colombia S.A. Sociedad Fiduciaria; and Citibank (Poland) S.A.

[5] Applicants do not request any relief with respect to Citibank T/O or any other subsidiary or affiliate of Citibank located in the Russian Federation. Should the Applicants request exemptive relief in the future with respect to Citibank T/O, such request would be the subject of a separate application.

[6] Citibank is subject to certain constraints imposed by the Federal Reserve Act with respect to its transactions with Citicorp and its subsidiaries. Accordingly, Applicants presently intend to permit only the existing and any additional Citibank Subsidiaries, but not the Citicorp Subsidiaries, to offer Direct Custody Arrangements.

4. Under the Agency Custody Arrangements, the Securities are maintained in the custody of the Foreign Subsidiaries only in accordance with a custody agreement among (a) the U.S. Investment Company or its custodian, (b) Citibank, and (c) Citicorp (the ''Agency Custody Agreement''). Citibank acts as the custodian or subcustodian of the Securities and delegates its responsibilities to the Foreign Subsidiaries in accordance with the terms of a subcustodian agreement (the ''Subcustodian Agreement'').

5. The Agency Custody Agreement provides that the delegation by Citibank to a Foreign Subsidiary does not relieve Citibank of any responsibility to the U.S. Investment Company or its custodian for any loss due to such delegation except such loss as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities), and other risk of loss for which neither Citibank nor the Foreign Subsidiary would be liable under rule 17f-5 (*e.g.*, despite the exercise of reasonable care, loss due to Act of God, nuclear incident and the like). The Agency Custody Agreement also provides that Citicorp is liable, in accordance with the terms of the guarantee described below, for losses of Securities resulting from the bankruptcy or insolvency of the Foreign Subsidiaries.

6. There may be instances in which a U.S. Investment Company would prefer having a Foreign Subsidiary be engaged as a direct custodian, receive direct instruction, and maintain separate accounts for it without the involvement of Citibank. In addition, certain United States banks that serve as custodians of U.S. Investment Companies do not require the custody services of another United States custodian, but nonetheless do require the services of foreign subcustodians in certain foreign countries.

7. The Direct Custody Arrangements for which an exemption is being sought would enable the Citibank Subsidiaries referred to in paragraph 1 and note 4 above to act as direct custodians in accordance with either a master custody agreement under which a U.S. Investment Company or its custodian would enter into a direct custodian relationship with a number of Citibank Subsidiaries or an individual custody agreement under which a U.S. Investment Company or its custodian would enter into a direct custodial relationship with a particular Citibank Subsidiary (either, a ''Direct Custody Agreement''). The Direct Custody

Agreement would be among (i) the U.S. Investment Company or custodian for which the Foreign Subsidiary acts as custodian or subcustodian, (ii) the Foreign Subsidiary, (iii) Citicorp, and (iv) Citibank. The terms of each Direct Custody Agreement would include a confirmation by the Foreign Subsidiary that it will act as the custodian or subcustodian, as the case may be, of the Securities under the requested order, an agreement by Citicorp that it is liable, in accordance with the terms of its guarantee, for losses of Securities resulting from the bankruptcy or insolvency of the Foreign Subsidiary, and an agreement by Citibank to be liable for any loss resulting from the performance of the Foreign Subsidiary, except such loss as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities), and other risk of loss for which neither Citibank nor the Foreign Subsidiary would be liable under rule 17f-5 (*e.g.*, despite the exercise of reasonable care, loss due to Act of God, nuclear incident and the like).

8. The extent of Citibank's liability for losses attributable to a Foreign Subsidiary under the Direct Custody Arrangements would be the same as that provided for under the Agency Custody Arrangements. Under both the Agency Custody Arrangements and the Direct Custody Arrangements, Citibank would be liable for the negligent acts or omissions of the Foreign Subsidiaries.

9. Both the Agency and Direct Custody Agreements would provide that Citicorp will be liable in accordance with the terms of a guarantee for losses of Securities resulting from bankruptcy or insolvency of any of the Foreign Subsidiaries. Under the 1987, 1990, and 1992 Orders, Citicorp has issued a guarantee for losses resulting from the bankruptcy or insolvency of each Foreign Subsidiary (the ''Guarantee''). If the requested order is issued, the Guarantee will be amended to cover all the Securities held by the Foreign Subsidiaries pursuant to an Agency Custody Agreement or a Direct Custody Agreement. The dollar amount of the Guarantee applicable to all Foreign Subsidiaries will equal or exceed the aggregate market value of the Securities held in the custody of the Foreign Subsidiaries.

10. The value of the Securities held under Agency Custody Agreement will be calculated by Citibank based on records maintained by Citibank, as custodian, and reports by the Foreign Subsidiaries. The total amount also will be reported to Citicorp. In addition, each Foreign Subsidiary will submit to Citicorp monthly its calculation, and the basis on which it was made, of the value of the Securities held by it under Direct Custody Agreements. After review of the results of the monthly monitoring, Citicorp will take the necessary steps to adjust the amount of the Guarantee to cover the aggregate value of the Securities.

11. In the event that at the time of an insolvency a Foreign Subsidiary holds Securities having an aggregate value in excess of the aggregate value of Securities which such Foreign Subsidiary held at the time of the previous adjustment of the Guarantee, Citicorp will immediately take such steps as may be necessary to increase the size of the Guarantee to cover the amount of such excess. This coverage will remain in place until such time as the Foreign Subsidiary's bankruptcy estate is settled, the amount of any loss to the U.S. Investment Company attributable to the bankruptcy or insolvency is calculated, and payment under the Guarantee, if necessary, is made.

**Applicants' Legal Analysis**

1. Applicants seek the requested exemptive relief because the Foreign Subsidiaries do not qualify to serve as custodians for U.S. Investment Companies under the terms of section 17(f) of the 1940 Act or rule 17f–5 thereunder. Section 17(f) provides, in relevant part, that a registered management investment company may place and maintain its securities and similar assets in the custody of a bank or banks meeting the requirements of section 26(a) of the 1940 Act. The Foreign Subsidiaries, however, do not fall within the definition of a ''bank'' as that term is defined in section 2(a)(5) of the 1940 Act.

2. Rule 17f–5 would permit a U.S. Investment Company to deposit securities, cash and cash equivalents with an ''eligible foreign custodian,'' a term that is defined to include, as here relevant, a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank holding company that is incorporated or organized under the laws of a country other than the United States and that has shareholders' equity in excess of $100,000,000 (U.S. $ or equivalent). None of the Foreign Subsidiaries currently meets or in the future will meet the minimum shareholders' equity requirement of rule 17f–5.

3. Citibank believes that permitting U.S. Investment Companies and their custodians to enter into direct custodial arrangements with the Foreign Subsidiaries adequately would protect U.S. Investment Companies and their shareholders against loss while permitting the Foreign Subsidiaries to serve the needs of U.S. Investment Companies more efficiently by being able to interact directly with the U.S. Investment Company or its custodian. The proposed arrangements would enable the Foreign Subsidiaries, as direct custodians, to carry out their custodial duties and to respond to their customers' instructions, inquiries and other operational needs without communications being processed through Citibank, thereby reducing the cost and time involved in administering custodial accounts.

4. Although Citibank would not be in an agency relationship with the Foreign Subsidiaries under the Direct Custody Arrangements, it nonetheless would provide the necessary review and independent oversight of their performance and capabilities. Applicants submit that Citibank's ongoing review insures that safeguards substantially equal to those provided by its United States operations are in place and provides for uniformity in procedures for custodial administration. Because Citibank would be a party to each Direct Custody Agreement and would agree to be responsible for negligent acts or omissions of the Foreign Subsidiaries, Citibank would have a vested interest in verifying that each Foreign Subsidiary maintained adequate standards for the safekeeping of securities.

5. Under the Direct Custody Arrangements, Citibank will be in privity of contract with the U.S. Investment Company or its custodian. While it would be necessary for a U.S. Investment Company or its custodian to establish the negligence of the applicable Foreign Subsidiary in the action against Citibank, obtaining a judgment against the particular Foreign Subsidiary would not be a condition precedent to bringing an action against Citibank.

6. Under the Agency Custody Arrangements, Citibank, in its capacity as custodian, would have custodial obligations to the U.S. Investment Company or its custodian. In that case, the Foreign Subsidiary would be the subcustodian and an agent of Citibank. Applicants assert that any distinction between the agency and direct custodial relationships, however, is not of consequence to U.S. Investment Companies and their custodians, since in either case they would be able to seek recovery for losses caused by the Foreign Subsidiaries' negligence from,

and bring an action directly against, Citibank.

7. Applicants assert that provision of the Guarantee by Citicorp (rather than by Citibank) under the Agency and Direct Custody Arrangements does not negatively affect the level of protection afforded the U.S. Investment Companies and custodians whose Securities are held in the custody of the Foreign Subsidiaries. Since the total Guarantee amount is available to cover one or more Foreign Subsidiaries, Applicants assert that the Guarantee should be more than sufficient to cover losses attributable to the bankruptcy of any one particular Foreign Subsidiary.

8. Applicants submit that, as required by section 6(c) of the 1940 Act, the exemptions requested are (i) necessary or appropriate in the public interest, (ii) consistent with the protection of investors, and (iii) consistent with the purposes fairly intended by the policy and provisions of the 1940 Act.

**Applicants' Conditions**

If the requested order is granted, Applicants agree to the following conditions:

1. The foreign custody arrangements proposed with respect to the Foreign Subsidiaries will satisfy the requirements of rule 17f–5 in all respects other than with regard to shareholders' equity.

2. Securities of U.S. Investment Companies and their custodians entering into Direct Custody Arrangements will be maintained with a Foreign Subsidiary only in accordance with a Direct Custody Agreement, required to remain in effect at all times during which the Foreign Subsidiary fails to satisfy the requirements of rule 17f–5 relating to shareholders' equity.

3. The Direct Custody Agreement will be among (i) each U.S. Investment Company or custodian for which the Foreign Subsidiary serves as custodian or subcustodian, (ii) the Foreign Subsidiary, (iii) Citibank, and (iv) Citicorp. The Direct Custody Agreement will provide the following:

(a) confirmation by the Foreign Subsidiary that it will act as the custodian or subcustodian, as the case may be, of the Securities of the U.S. Investment Company pursuant to the requested order;

(b) Citicorp will be liable, in accordance with the terms of the Guarantee, for losses of the Securities of the U.S. Investment Companies resulting from the bankruptcy or insolvency of the particular Foreign Subsidiary; and

(c) Citibank will be liable for any loss resulting from the performance of the Foreign Subsidiary, except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife, or armed hostilities) and (ii) other risks of loss for which the Foreign Subsidiary would not be liable under rule 17f–5.

4. Under the Direct Custody Arrangements, U.S. Investment Companies or their custodians, as the case may be, will be entitled to seek relief directly against Citibank or the particular Foreign Subsidiary.

5. Securities of U.S. Investment Companies custodied pursuant to Agency Custody Arrangements will be maintained with a Foreign Subsidiary only in accordance with an Agency Custody Agreement, required to remain in effect at all times during which the foreign Subsidiary fails to satisfy the requirements of rule 17f–5 relating to shareholders' equity.

6. The Agency Custody Agreement will be among (i) the U.S. Investment Companies or custodians for which Citibank serves as custodian or subcustodian, (ii) Citibank, and (iii) Citicorp. The Agency Custody Agreement will provide the following:

(a) Citibank will act as the custodian or subcustodian, as the case may be, of the Securities of the U.S. Investment Companies and will be able to delegate its responsibilities to the Foreign Subsidiaries;

(b) Citibank's delegation of duties to a Foreign Subsidiary would not relieve Citibank of any responsibility to the U.S. Investment Company or its custodian for any loss due to such delegation except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) and (ii) other risks of loss for which neither Citibank nor the Foreign Subsidiary would be liable under rule 17f–5; and

(c) Citicorp will be liable, in accordance with the terms of the Guarantee, for losses of U.S. Investment Company Securities resulting from the bankruptcy or insolvency of the Foreign Subsidiary.

7. With respect to the Agency Custody Arrangements, Citibank has entered, or will enter, into a Subcustodian Agreement with each Foreign Subsidiary pursuant to which Citibank will delegate to the Foreign Subsidiary such of its duties and obligations as would be necessary to permit the Foreign Subsidiary to hold in custody, in the country in which it operates, the Securities of the U.S. Investment Company. The Subcustodian Agreement provides, or will provide, an acknowledgement by the Foreign Subsidiary that it is acting as a foreign custodian for U.S. Investment Companies and their custodians pursuant to the terms of the exemptive order requested by the application. The Subcustodian Agreement provides explicitly, or will explicitly provide, that U.S. Investment Companies or their custodians, as the case may be, that have entered into an Agency Custody Agreement with Citibank will be third party beneficiaries of the Subcustodian Agreement, will be entitled to enforce the terms thereof, and will be entitled to seek relief directly against the Foreign Subsidiary or against Citibank.

8. Each Subcustodian Agreement is or will be governed by New York law; or, if any Subcustodian Agreement were governed by the local law of the foreign jurisdiction in which the Foreign Subsidiary is located, Citibank has obtained or shall obtain an opinion of counsel from such foreign jurisdiction opining as to the enforceability of the rights of a third party beneficiary under the laws of such foreign jurisdiction.

9. The dollar value of the Guarantee applicable to the Foreign Subsidiaries shall be at least equal to the aggregate value of the Securities of U.S. Investment Companies held in the custody of the Foreign Subsidiaries pursuant to the Direct Custody Agreements and the Agency Custody Agreements, calculated at the close of the previous calendar month. The value of U.S. Investment Company Securities held in the custody of the Foreign Subsidiaries as Citibank's subcustodians will be calculated by Citibank based on records maintained by Citibank and reports by the Foreign Subsidiaries at the end of each calendar month, and such amount will be reported to Citicorp. In addition each Foreign Subsidiary will submit to Citicorp monthly its calculation, and the basis on which it was made, of the market value of U.S. Investment Company Securities held in custody by it under Direct Custody Agreements. After reviewing the results of the monthly monitoring, Citicorp will take such steps as may be necessary to adjust the amount of the Guarantee to cover the aggregate value of the Securities held under Agency and direct Custody Agreements. In the event of the insolvency of a Foreign Subsidiary at a time when the aggregate value of U.S. Investment Company Securities held by such Foreign Subsidiary is in excess of the amount of such Securities which such Foreign Subsidiary held at the prior month's end, Citicorp will immediately take such steps as may be necessary to

increase the size of the Guarantee to cover the amount of such excess.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13075 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Release No. 21088; 811–5501]**

## Kidder, Peabody Corporate Income Fund; Notice of Application

May 22, 1995.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

**APPLICANT:** Kidder, Peabody Corporate Income Fund.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring it has ceased to be an investment company.

**FILING DATE:** The application was filed on May 4, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 60 Broad Street, New York, New York 10004–2350.

**FOR FURTHER INFORMATION CONTACT:** Diane L.Titus, Paralegal Specialist, at (202) 942–0584, or H.R. Hallock, Jr., Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On March 15, 1988, applicant registered under the Act and filed a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement was never declared effective, an applicant has made no public offering of its shares.

2. Applicant never issued or sold any securities, except to its sole shareholder and sponsor, Kidder Peabody Asset Management, Inc. As of the date of filing of the application, applicant had no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to written consent, applicant's sole Trustee determined that it was advisable and in the best interests of the applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company and terminate its existence as a Massachusetts business trust and liquidate any assets and that the proceeds from the liquidation of the shares be returned to Kidder Peabody Asset Management, Inc.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13076 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Release No. 21090; 811–7756]**

## Kidder, Peabody Series Trust; Notice of Application

May 22, 1995.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

**APPLICANT:** Kidder, Peabody Series Trust.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring it has ceased to be an investment company.

**FILING DATE:** The application was filed on May 4, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 60 Broad Street, New York, New York 10004–2350.

**FOR FURTHER INFORMATION CONTACT:** Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or H.R. Hallock, Jr., Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On May 27, 1993, applicant registered under the Act and filed a registration statement under the Act and under the Securities Act of 1933. Applicant's registration statement was never declared effective, and applicant has made no public offering of its shares.

2. Applicant never issued or sold any securities, except to its sole shareholder and sponsor, Kidder Peabody Asset Management, Inc. As of the date of filing of the application, applicant had no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to written consent, applicant's sole Trustee determined that it was advisable and in the best interests of the applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company and terminate its existence as a Massachusetts business trust and liquidate any assets and that the proceeds from the liquidation of the shares be returned to Kidder Peabody Asset Management, Inc.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13077 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Release No. 21089; 811–6371]**

## Kidder, Peabody U.S. Treasury Securities Fund; Notice of Application

May 22, 1995.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

**APPLICANT:** Kidder, Peabody U.S. Treasury Securities Fund.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring it has ceased to be an investment company.

**FILING DATE:** The application was filed on May 4, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 60 Broad Street, New York, New York 10004–2350.

**FOR FURTHER INFORMATION CONTACT:** Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or H.R. Hallock, Jr., Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant is an open-end, diversified management investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On August 7, 1991, applicant registered under the Act and filed a registration statement under the Act and the Securities Act of 1933. Applicant's registration statement was never declared effective, and applicant has made no public offering of its shares.

2. Applicant never issued or sold any securities, except to its sole shareholder and sponsor, Kidder Peabody Asset Management, Inc. As of the date of filing of the application, applicant had no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Pursuant to written consent, applicant's sole Trustee determined that it was advisable and in the best interests of the applicant to withdraw its registration statement with the SEC, cease to be registered as an investment company and terminate its existence as a Massachusetts business trust and liquidate any assets and that the proceeds from the liquidation of the shares be returned to Kidder Peabody Asset Management, Inc.

4. Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13078 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

**[Rel. No. IC—21091; 812–9554]**

## Nations Fund, Inc., et al.; Notice of Application

May 23, 1995.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

**APPLICANTS:** Nations Fund, Inc., Nations Fund Trust, Nations Fund Portfolios, Inc. and The Capitol Mutual Funds (collectively, the Investment Companies''), and NationsBank, N.A. (the ''Adviser'').

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and pursuant to rule 17d–1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit the Investment Companies to enter into deferred compensation arrangements with their directors.

**FILING DATE:** The application was filed on March 28, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Marco E. Adelfio, Morrison & Foerster, 2000 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicant's Representations

1. Each Investment Company is a registered open-end management investment company comprised of several investment portfolios. Nations Fund trust and Capitol Mutual Funds are organized as Massachusetts business trusts. Nations Fund, Inc. and Nations Fund Portfolios, Inc. are organized as Maryland corporations. The Adviser serves as the investment adviser for each investment portfolio of each Investment Company. Applicants request that the proposed relief apply to the Investment Companies and all subsequent registered open-end investment companies advised by the Adviser (such registered open-end

investment companies, together with the Investment Companies, are referred to collectively as the ''Funds'').

2. The board of directors of each Investment Company currently consists of seven persons, five of whom are not ''interested persons'' of that Investment Company. The membership of each of the boards is identical. Each director[1] is entitled to receive annual fees plus meeting attendance fees from each Investment Company. The chairman of the board receives an additional fee from each Investment Company. A deferred fee arrangement for the directors that has been adopted by the existing Funds is implemented through a deferred compensation plan (the ''Plan''). The purpose of the Plan is to permit individual directors to elect to defer receipt of all or a portion of the fees otherwise payable for their services, to enable them to defer payment of income taxes on such fees or for other reasons.

3. The Plan became effective with respect to each Investment Company upon adoption by its board of directors. The Plan was adopted prior to the receipt of any exemptive relief requested. An exemptive order is required for the Plan because the Funds wish to use returns on portfolios of the Fund to determine the amount of earnings and gains or losses allocated to a director's deferred compensation account (''Deferral Account''); this feature will not be implemented without the issuance of an order. Pending receipt of an order, the Plan provides that the compensation deferred by a participant (''Compensation Deferrals'') will be credited to the participant's Deferral Account in the form of cash and credited with earnings in an amount equal to the yield on 90-day U.S. Treasury Bills.

4. Under the Plan, Compensation Deferrals will be credited, as of the date such fees would have been paid, to a separate book reserve account established with respect to each participating Fund. The director may select one or more investment portfolios from a list of available portfolios of the Funds that will be used to measure the hypothetical investment performance of the director's Deferral Account. The value of a Deferral Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in shares of the investment portfolios designated by the director (the ''Designated Shares''). Each Deferral Account will be credited or charged with book adjustments representing all interest, dividends and other earnings and all gains and losses that would have been realized had the amounts credited to such account actually been invested in the Designated Shares.

5. A participating Fund's obligation to make payments with respect to a Deferral Account is and will remain a general obligation of the Fund to be made from the general assets and property of each portfolio. With respect to the obligations created under the Plan, each director will remain a general unsecured creditor. The Plan does not create an obligation of any Fund to any director to purchase, hold or dispose of any investments, and if a Fund or portfolio should choose to purchase investments in order to exactly ''match'' its obligations, all such investments will continue to be part of the general assets and property of such Fund.

6. Each Fund may, and with respect to any money market fund that values its assets by the amortized cost method will, purchase and maintain Designated Shares in an amount equal to the deemed investments of the Deferral Accounts. Except in the case of money market funds, applicants expected to effect matching transactions only if circumstances warrant, based upon a consideration of a Fund's total assets and the amount of deferred compensation subject to the Plan.

**Applicants' Legal Analysis**

1. Applicants request an order that would exempt the Funds under section 5(c) of the Act from sections 13(a)(2), 18(f)(1), 22(f), and 22(g) of the Act, and rule 2a–7 thereunder to the extent necessary to permit the Funds to enter into deferred fee arrangements with their directors; under sections 6 (c) and 17(b) of the Act from section 17(a)(1) of the Act to the extent necessary to permit the Funds to sell securities issued by them to participating Funds; and pursuant to rule 17d–1 under the Act to permit the Funds to engage in certain joint transactions incident to such deferred fee arrangements.

2. Section 18(f)(1) generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan does not give rise to any of the ''evils'' that led to Congress' concerns. No participating Fund will be ''borrowing'' from the directors. The Plan will not induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits, affect control of any Fund, confuse investors or convey a false impression as to the safety of their investments, or be inconsistent with the theory of mutuality of risk.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities issued by open-end investment companies. The Plan sets forth any restrictions or transferability or negotiability, and such restrictions are primarily to benefit the participating directors and would not adversely affect the interests of the director or of any shareholder of any Fund.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. The legislative history of the Act suggests Congress was concerned with the dilutive effect on the equity and voting power that may result when securities are issued for consideration that is not readily valued. The Plan would not have this effect. Applicants believe that the Plan merely would provide for deferral of payment of fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Rule 2a–7 imposes certain restrictions on the investments of ''money market funds,'' as defined under the rule, that would prohibit a Fund that is a money market fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Designated Shares with the deemed investments of the Deferred Fee Accounts, thereby ensuring that the deferred fee arrangements would not affect net asset value.

6. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company, except in limited circumstances. Funds that are advised by the same entity may be ''affiliated persons'' under section 2(a)(3)(C) of the Act. Applicants believe that an exemption from this provision would not implicate Congress' concerns in enacting section 17(a)(1) but would facilitate the matching of each Fund's liability for Compensation Deferrals with Designated Shares that would determine the amount of such Fund's liability. Applicants believe that the proposed transaction satisfies the criteria of sections 6(c) and 17(b).

[1] ''Director'' refers to a trustee or director of a Fund, as the case may be.

7. Section 17(d) and rule 17d–1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement without SEC approval. Under the Plan, participating directors will not receive a benefit that otherwise would inure to a Fund or its shareholders. Deferral of a director's fees in accordance with the Plan would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position (apart from tax effects) as would occur if the fees were paid on a current basis and then invested by the director directly in Designated Shares.

**Applicants' Conditions**

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. With respect to the requested relief from rule 2a–7, any money market Fund that values its assets by the amortized cost method will buy and hold Designated Shares that determine the performance of Deferral Accounts to achieve an exact match between the liability of such Fund to pay Compensation Deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Shares issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other holders of shares of such affiliated Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95–13079 Filed 5–26–95; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area #2775 Amendment #1]**

### Louisiana; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective May 17, 1995, to establish the incident period for this disaster as beginning on May 8, 1995 and continuing through May 16, 1995.

All other information remains the same i.e., the termination date for filing applications for physical damage is July 10, 1995, and for loans for economic injury the deadline is February 12, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 22, 1995.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 95–13099 Filed 5–26–95; 8:45 am]

BILLING CODE 8025–01–M

**[Declaration of Disaster Loan Area #2776; Amendment #1]**

### Mississippi; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective May 19, 1995, to include Jackson County, Mississippi as a disaster area due to damages caused by severe storms, tornadoes, and flooding. In addition, effective May 17, 1995, the declaration is amended to establish the incident period for this disaster as beginning on May 8, 1995 and continuing through May 17, 1995.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of George in the State of Mississippi, and Mobile in the State of Alabama may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., termination date for filing applications for physical damage is July 10, 1995, and for loans for economic injury the deadline is February 12, 1996.

The economic injury number for the State of Alabama is 852900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 22, 1995.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 95–13098 Filed 5–26–95; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF STATE

**[Public Notice 2213]**

### United States International Telecommunications Advisory Committee (ITAC): Study Group B; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Study Group B Group will meet on Thursday, June 22, 1995 at 9:30 a.m., Room 1912 of the Department of State.

The Agenda for Study Group B will include a review of the results of the ITU–T Study Group 11 meeting (May 1995) as well as the results of the June Study Group 9 meeting. Consideration of contributions to upcoming meetings of ITU–T Study Group 13 in July, 1995 and the ITU–T Study Group 10 meeting, in September of 1995 will also be considered on the agenda of this meeting. Other matters within the purview of Study Group B may be raised at the meeting. Persons presenting contributions to the meeting of Study Group B should bring 35 copies to the meeting.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you are not presently named on the mailing list of the Telecommunications Standardization Sector Study Group, and wish to attend please call 202–647–0201 not later than 5 days before the scheduled meetings. Enter from the ''C'' Street Main Lobby. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. Government ID (company ID's are no longer accepted by Diplomatic Security).

Dated: May 16, 1995.

**Earl S. Barbely,**

*Chairman, U.S. ITAC for Telecommunication Standardization.*

[FR Doc. 95–13058 Filed 5–26–95; 8:45 am]

BILLING CODE 4710–45–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Airborne Windshear Warning and Escape Guidance Systems for Transport Airplanes

**AGENCY:** Federal Aviation Administration, DOD.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of and requests comments on a proposed technical standard order (TSO) pertaining to airborne windshear warning and escape guidance systems for transport airplanes. The proposed TSO prescribes the minimum performance standards that airborne windshear warning and escape guidance systems for transport airplanes must meet to be identified with the marking ''TSO–C117a.''.

**DATES:** Comments must identify the TSO file number and be received on or before August 31, 1995.

**ADDRESSES:** Send all comments on the proposed technical standard order to: Technical Analysis Branch, AIR–120,

Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C117a, Federal Aviation Administration (FAA), 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

**Comments Invited**

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 804, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m., and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

**Background**

Revised TSO–C117a, Airborne Windshear Warning and Escape Guidance Systems for Transport Airplanes, requires the applicant to show by analysis, or other suitable means, that the system threshold is above a point at which nuisance warnings would be objectionable under conditions of severe turbulence, or aircraft change of configuration, i.e. flaps and/or gear retraction. If electronics techniques are used to reduced nuisance warnings by turbulence or aircraft configuration change, it must be shown that the system response to windshear detection is acceptable.

A Douglas DC–9–31 airplane crashed while executing a missed-approach following an instrument landing system approach. The NTSB report identifies the probable contriving factor for the missed-detection of the presence of a wind shear in the flight path was a warning delay designed into the wind shear detection system. This delay of warning was designed to reduce nuisance warnings from severe turbulence or aircraft configuration change, i.e., change of flap setting. This TSO revision will require test to demonstrate that wind shear detection is within acceptable limits.

**How To Obtain Copies**

A copy of the proposed TSO–C117a may be obtained by contacting the individual listed under ''**FOR FURTHER INFORMATION CONTACT.**''

Issued in Washington, DC, on May 23, 1995.

**John K. McGrath,**

*Manager, Aircraft Engineering Division, Aircraft Certification Service.*

[FR Doc. 95–13132 Filed 5–26–95; 8:45 am]

**BILLING CODE 4910–13–M**

## National Highway Traffic Safety Administration

**[Docket No. 95–44; Notice 1]**

## Receipt of Petition for Decision That Nonconforming 1989 Honda Civic DX Hatchback Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1989 Honda Civic DX Hatchback passenger cars are eligible for importation.

**SUMMARY:** This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1989 Honda Civic DX Hatchback that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

**DATE:** The closing date for comments on the petition is June 29, 1995.

**ADDRESS:** Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K Motors of Kingsville, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1989 Honda Civic DX Hatchback passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1989 Honda Civic DX Hatchback that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1989 Honda Civic DX Hatchback to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1989 Honda Civic DX Hatchback, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being

readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1989 Honda Civic DX Hatchback is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a key microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer, wired to the seat belt latch. The petitioner states that the vehicle is equipped with U.S.-model shoulder belts in both front and rear outboard seating positions.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1989 Honda Civic DX Hatchback must be reinforced with steel support structures to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 24, 1995.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 95–13168 Filed 5–26–95; 8:45 am]

BILLING CODE 4910–59–M

## DEPARTMENT OF THE TREASURY

### Customs Service

**[T.D. 95–46]**

### Country of Origin Marking for the Former Yugoslav Republic of Macedonia

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** On February 8, 1994, the United States extended formal recognition to The Former Yugoslav Republic of Macedonia as an independent state. This document notifies the public of the name and the English spelling that is to be used for country of origin marking on merchandise imported into the United States from the Former Yugoslav Republic of Macedonia. It also grants a grace period to permit the continued importation of merchandise marked ''Yugoslavia.''

**EFFECTIVE DATE:** July 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Monika Rice, Office of Regulations and Rulings, (202–482–6980).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Customs has authority pursuant to 19 U.S.C. 1304 to determine the character of the words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and to require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of an article.

On February 8, 1994, the United States extended formal recognition to The Former Yugoslav Republic of Macedonia as an independent state. Accordingly, products of The Former Yugoslav Republic of Macedonia imported into the U.S. are subject to marking with the English name of the independent state. The United States Department of State has indicated that the English name and the correct spelling of this independent state is:

| Long form name | Short form name |
|---|---|
| The Former Yugoslav Republic of Macedonia. | (No current short form) |

Instead of marking a product of The Former Yugoslav Republic of Macedonia with the long form name, the abbreviations ''FYR Macedonia,'' ''Macedonia (FYR),'' ''F.Y.R.O.M. (Macedonia),'' or similar markings may be used, provided the abbreviations ''FYR'' or ''F.Y.R.O.M.'' are adjacent to the word ''Macedonia,'' and the words are in a comparable size. However, the Department of State has advised that the markings ''Macedonia,'' ''Republic of Macedonia'', or ''Made in Macedonia,'' are not appropriate at this time.

Customs recognizes that manufacturers and importers may need time to adjust to this change and that an abrupt change in the marking requirements could cause undue hardship. In Headquarters Ruling Letter 735526 dated April 28, 1994, Customs held that until February 8, 1995, merchandise produced in The Former Yugoslav Republic of Macedonia could be marked ''Yugoslavia'' as was previously required by a notice published at 57 FR 23455 (1992). However, since the general public was not given notice of this effective date, Customs will continue to accept products of The Former Yugoslav Republic of Macedonia with the marking ''Yugoslavia,'' ''Yugoslavia/Skopje,'' or ''Yugoslavia/Macedonia'' until 60 days from date of publication of this notice in the **Federal Register**. If the marking ''Yugoslavia'' is used, in order to avoid sanctions against products produced in Yugoslavia, importers should be prepared to demonstrate to the satisfaction of Customs that the country of origin of the product is The Former Yugoslav Republic of Macedonia and not Yugoslavia. All products of The Former Yugoslav Republic of Macedonia entered or withdrawn from warehouse for consumption on or after 60 days from the date this document is published in the **Federal Register** will be required to be marked ''The Former Yugoslav Republic of Macedonia'' or with one of the abbreviations set forth above.

Dated: May 22, 1995.

**Stuart P. Seidel,**

*Assistant Commissioner, Office of Regulations and Rulings.*

[FR Doc. 95–13071 Filed 5–26–95; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Claims Adjudication Commission, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that the Veterans' Claims Adjudication Commission will meet on Wednesday, June 7, 1995, and Thursday, June 8, 1995, at the Washington, DC. office of the Disabled American Veterans (1st floor), 807 Maine Avenue, SW., Washington, DC. The Commission shall meet on June, from 9 a.m. to 3:30 p.m. and on June 8 from 9 a.m. to 12 noon.

The major focus of this meeting will be to provide Commission members with an overview of remaining statutory reporting areas the Commission is mandated to study. The Commission will receive presentations from individuals who have been designated to assist the Commission in its study and evaluation in each statutory area. The Commission will also receive presentations on certain recommendations of the VA Inspector General with regard to appeals processing, customer service issues, the DOD/VA Reinvention Partnership, ethical considerations for Advisory Committee members, and will address its future agenda.

The meeting is open to the public; however, no specific amount of time is allocated for the purpose of receiving oral presentations from the public. The Commission will accept appropriate written comments from interested parties on the subject matter addressed during the meeting. Such comments may be referred to the Commission at the following address: Veterans' Claims Adjudication Commission (20C), U.S. Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC.

Additional information concerning this meeting may be obtained by contacting the Commission at (202) 275–2142.

Dated: May 19, 1995.

By Direction of the Secretary.

**Heyward Bannister,**

*Committee Management Officer.*

[FR Doc. 95–13068 Filed 5–26–95; 8:45 am]

BILLING CODE 8320–01–M

# Sunshine Act Meetings

**Federal Register**

Vol. 60, No. 103

Tuesday, May 30, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## U.S. COMMISSION ON CIVIL RIGHTS

**DATE AND TIME:** Friday, June 9, 1995, 9:30 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

**STATUS:** Open and Closed.

**Agenda**

I. Approval of Agenda
II. Approval of Minutes of May 12, 1995 Meeting
III. Announcements
IV. Executive Session to Discuss Personal Rules and Practices of the Commission
V. Staff Director's Report
VI. ''Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs'' Report
VII. State Advisory Committee Report: ''Rising Racial Tensions in Logan County, West Virginia''
VIII. State Advisory Committee Appointments for Hawaii, New Mexico, North Carolina, South Carolina, Virginia (interim), and Wisconsin
IX. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8116 at least five (5) days before the scheduled date of the hearing.

**CONTRACT PERSON FOR FURTHER INFORMATION:** Barbara Brooks, Press and Communications (202) 376–8312.

**Miguel A. Sapp,**

*Acting Solicitor.*

[FR Doc. 95–13201 Filed 5–25–95; 9:19 am]

BILLING CODE 6335–01–M

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

**TIME AND DATE:** June 16, 1995, 10:00 am–3:00 pm.

**PLACE:** The Presidio, Building 135, Fisher Loop, San Francisco, California, 94129.

**STATUS:** The meeting will be open to the public up to the seating capacity of the room.

**MATTERS TO BE CONSIDERED:** The Board of Directors of the Corporation for National and Community Service will meet on June 16, 1995, to review reports from Committees of the Board of Directors on Corporation activities, review the report from the Chief Executive Officer, and to review the status of various Corporation initiatives. There will be a period devoted to public comment at the end of the meeting.

**CONTACT PERSON FOR FURTHER INFORMATION:** Rhonda Taylor, Associate Director of Special Projects and Initiatives, The Corporation For National Service, 8th Floor, Room 8619, 1201 New York Avenue, NW., Washington, DC 20525. Phone (202) 606–5000 ext. 282. Fax (202 565–2794.

Dated: May 24, 1995.

**Terry Russell,**

*General Counsel.*

[FR Doc. 95–13229 Filed 5–25–95; 1:10 pm]

BILLING CODE 6050–28–M

## FEDERAL ENERGY REGULATORY COMMISSION NOTICE

May 24, 1995.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

**DATE AND TIME:** May 31, 1995, 10:00 a.m.

**PLACE:** 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

*** Note:** Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

**Consent Agenda—Hydro 631ST Meeting—May 31, 1995 Regular Meeting (10:00 a.m.)**

CAH–1.
Docket Nos. HBO8–95A–075–001 and HBO8–95A–076–001, Virginia Electric and Power Company
CAH–2.
Project No. 4797–039, Cogeneration, Inc.
CAH–3.
Project No. 11521–001, Skokomish Indiana Tribe
CAH–4.
Project No. 2392–009, Simpson Paper (Vermont) Company
CAH–5.
Omitted
CAH–6.
Docket No. EL85–42–002, Guy M. Carlson
CAH–7.
Project Nos. 4678–018 and 4679–021, Power Authority of the State of New York
CAH–8.
Project No. 10934–004, William B. Ruger, Jr.
CAH–9.
Project No. 7888–010, Comtu Falls Corporation
CAH–10.
Omitted

**Consent Agenda—Electric**

CAE–1.
Docket Nos. ER95–836–000 and ER95–851–000, Maine Public Service Company
CAE–2.
Docket No. ER95–852–000, Tampa Electric Company
CAE–3.
Docket No. ER95–854–000, Kentucky Utilities Company
CAE–4.
Docket No. ER94–478–000, Medina Power Company
Docket No. EL94–87–000, Niagara Mohawk Power Corporation
CAE–5.
Docket No. ER95–735–000, Central Maine Power Company
CAE–6.
Omitted
CAE–7.
Docket No. ES95–26–000, Citizens Utilities Company
CAE–8.
Docket No. ER95–634–000, Florida Power Corporation
CAE–9.
Docket Nos. ER93–465–007 and ER93–922–006, Florida Power & Light Company
CAE–10.
Docket No. ER95–59–002, Southern Company Services, Inc.
CAE–11.
Docket No. ER95–135–000, Allegheny Power Service Corporation
Docket No. ER95–486–000, Midwest Power Systems, Inc.
Docket No. ER95–497–000, American Electric Power Service Corporation
Docket No. ER95–498–000, Toledo Edison Company
Docket No. ER95–499–000, Centerior Energy
Docket No. ER95–507–000, Ohio Edison Company and Pennsylvania Power Company
Docket No. ER95–559–000, Wisconsin Electric Power Company
Docket No. ER95–576–000, Wisconsin Public Service Corporation

Docket No. ER95–736–000, Wisconsin Power and Light Company
Docket Nos. ER95–564–000 through ER95–568–000, PJM Interconnection Association
CAE–12.
Docket No. EC95–8–000, Southwestern Public Service Company and Texas-New Mexico Power Company
Docket No. ER95–538–000, Southwestern Public Service Company
CAE–13.
Docket Nos. EC93–6–003 and ER94–1015–002, Cincinnati Gas & Electric Company and PSI Energy, Inc.
CAE–14.
Docket No. ER94–1518–001, Commonwealth Electric Company
CAE–15.
Docket No. EG95–42–000, GVK Industries Limited
CAE–16.
Docket No. EG95–43–000, Jegurupadu Operating and Maintenance Company
CAE–17.
Docket No. EG95–40–000, Dabhol Power Company
CAE–18.
Docket No. EG95–41–000, Entergy Power Development Corporation
CAE–19.
Docket No. EL93–35–000, City of Cleveland v. Cleveland Electric Illuminating Company
CAE–20.
Docket No. EL94–93–000, American Municipal Power-Ohio, Inc. v. Cleveland Electric Illuminating Company
CAE–21.
Docket No. RM95–9–000, Real-time Information Networks
CAE–22.
Docket No. ER92–517–000, Southern Company Services, Inc.

**Consent Agenda—Gas and Oil**

CAG–1.
Docket No. RP95–257–000, Equitrans, Inc.
CAG–2.
Docket Nos. TM94–4–34–006, 007, RP95–259–000 and 001, Florida Gas Transmission Company
CAG–3.
Docket Nos. RP95–263–000 and RP95–149–000, ANR Pipeline Company
CAG–4.
Docket No. RP95–268–000, Tennessee Gas Pipeline Company
CAG–5.
Docket No. RP95–274–000, Transcontinental Gas Pipe Line Corporation
CAG–6.
Docket No. RP95–281–000, South Georgia Natural Gas Company
CAG–7.
Docket No. RP95–283–000, Southern Natural Gas Company
CAG–8.
Docket No. RP93–49–001, Paiute Pipeline Company
CAG–9.
Docket Nos. RP95–55–001 and RP95–269–000, Paiute Pipeline Company
CAG–10.
Docket No. RP95–173–001, Koch Gateway Pipeline Company
CAG–11.
Docket No. RP95–236–000, Kern River Gas Transmission Company
CAG–12.
Docket No. RP95–254–000, Williams Natural Gas Company
CAG–13.
Docket No. RP95–260–000, Natural Gas Pipeline Company of America
CAG–14.
Docket No. RP95–279–000, Transwestern Pipeline Company
CAG–15.
Docket No. RP95–285–000, Natural Gas Pipeline Company of America
CAG–16.
Docket No. PR95–4–000, Arkansas Oklahoma Gas Corporation
CAG–17.
Docket Nos. PR94–18–000 and 001, Cranberry Pipeline Corporation
CAG–18.
Docket Nos. RP93–148–004 and RP95–62–001, Tennessee Gas Pipeline Company
CAG–19.
Docket No. RP94–425–002, Tennessee Gas Pipeline Company
CAG–20.
Docket No. TM95–2–17–000, Texas Eastern Transmission Corporation
CAG–21.
Docket No. RP94–3–000, KansOk Partnership
CAG–22.
Docket No. RP85–209–000, Koch Gateway Pipeline Company
CAG–23.
Docket Nos. RP95–143–000 and 001, Northwest Pipeline Corporation
CAG–24.
Docket Nos. RP94–149–004 and RP94–145–002, Pacific Gas Transmission Company
CAG–25.
Docket No. RP94–285–000, Williston Basin Interstate Pipeline Company
CAG–26.
Docket No. RP95–6–000, Northwest Pipeline Corporation
CAG–27.
Omitted
CAG–28.
Omitted
CAG–29.
Docket No. RP95–199–001, NorAm Gas Transmission Company
CAG–30.
Docket No. RP95–180–001, ANR Pipeline Company
CAG–31.
Docket No. RP95–182–002, ANR Pipeline Company
CAG–32.
Docket Nos. RP95–187–003 and TM95–2–37–003, Northwest Pipeline Corporation
CAG–33.
Omitted
CAG–34.
Docket Nos. RS92–16–012, CP92–182–012, RP91–135–002 and RP95–103–003, Florida Gas Transmission Company
CAG–35.
Docket Nos. PR93–4–001 and 000, Transok, Inc.
CAG–36.
Docket Nos. RP94–96–010, RP94–213–007 and TM95–2–22–002, CNG Transmission Corporation
CAG–37.
Docket Nos. IS90–21–003, IS90–31–003, IS90–32–003, IS90–40–003, IS91–1–003, SP91–3–003, SP91–5–003, IS91–28–003, IS91–33–003, OR93–1–001, IS92–26–000, IS95–2–000 and IS95–7–000, Williams Pipe Line Company
Docket Nos. IS90–39–003, IS91–3–001 and IS91–32–001 (Phase I), Enron Liquids Pipeline Company
CAG–38.
Omitted
CAG–39.
Docket No. RP93–186–003, Carnegie Interstate Pipeline Company
CAG–40.
Docket No. RP94–273–002, Columbia Gas Transmission Corporation
CAG–41.
Omitted
CAG–42.
Docket No. RP92–137–033, Transcontinental Gas Pipe Line Corporation
CAG–43.
Docket No. OR95–4–000, Union Oil Company of California, dba Unocal v. Cook Inlet Pipe Line Company
CAG–44.
Docket No. OR95–1–000, Sinclair Oil Corporation v. CITGO Products Pipeline Company, CITGO Petroleum Corporation and Lyondell-CITGO Refining Company, Ltd.
CAG–45.
Omitted
CAG–46.
Docket No. RM95–12–000, Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines
CAG–47.
Docket Nos. IS95–28–000 and IS92–26–000, et al., Williams Pipe Line Company
CAG–48.
Docket No. IS95–29–000, Amoco Pipeline Company
Docket No. IS92–26–000, Williams Pipe Line Company
CAG–49.
Docket Nos. IS92–27–000, IS93–4–000 and IS93–33–001, Lakehead Pipe Line Company, Limited Partnership
CAG–50.
Docket No. MG88–5–005, Koch Gateway Pipeline Company
CAG–51.
Docket No. MG88–15–005, Southern Natural Gas Company
Docket No. MG88–16–004, South Georgia Natural Gas Company
CAG–52.
Docket No. RP95–267–000, Transwestern Pipeline Company
CAG–53.
Docket No. CP94–267–002, NorAm Gas Transmission Company
CAG–54.
Docket No. CP94–329–001, El Paso Natural Gas Company
CAG–55.
Docket Nos. CP93–361–002, 001 and 000, SunShine Interstate Transmission Company
CAG–56.

Docket Nos. CP93–618–003 and 004, Pacific Gas Transmission Company
CAG–57.
Docket No. CP94–36–006, Arkla Gathering Services Company
Docket Nos. CP94–628–003, RP95–94–003 and 005, NorAm Gas Transmission Company
CAG–58.
Omitted
CAG–59.
Docket Nos. CP93–548–000 and 001, Wallkill Transport Company, L.P.
CAG–60.
Docket Nos. CP92–184–004, 007 and 009, Texas Eastern Transmission Corporation
CAG–61.
Docket No. CP95–74–000, Texas Eastern Transmission Corporation
CAG–62.
Docket No. CP95–237–000, Greeley Gas Company
CAG–63.
Docket No. CP95–264–000, Iowa-Illinois Gas and Electric Company and MidAmerican Energy Company
CAG–64.
Docket Nos. CP94–130–000 and 001, Northern Natural Gas Company
Docket Nos. CP95–162–000 and CP95–179–000, Havre Pipeline Company
CAG–65.
Docket No. CP94–339–000, Midwestern Gas Transmission Company and Tenneco Midwest Natural Gas, L.P.
CAG–66.
Docket No. CP94–340–000, East Tennessee Natural Gas Company and Tenneco East Natural Gas, L.P.
CAG–67.
Docket Nos. CP94–577–000 and 001, Natural Gas Pipeline Company of America
CAG–68.
Docket No. CP94–715–000, Koch Gateway Pipeline Company
CAG–69.
Docket No. CP94–732–000, Tennessee Gas Pipeline Company
CAG–70.
Docket No. CP95–91–000, ANR Pipeline Company
CAG–71.
Docket No. CP95–156–000, Washington Natural Gas Company
CAG–72.
Docket Nos. CP93–685–000 and 001, Tuscarora Gas Transmission Company
CAG–73.
Docket No. CP95–168–000, Sea Robin Pipeline Company
CAG–74.
Docket No. RP95–262–000, Kern River Gas Transmission Company
CAG–75.
Docket No. RP95–265–000, Texas Gas Transmission Corporation
CAG–76.
Docket No. RM95–5–001, Release of Firm Capacity on Interstate Natural Gas Pipelines

**Hydro Agenda**

H–1.
Reserved

**Electric Agenda**

E–1.
Docket No. EL95–16–001, Southern California Edison Company
Docket No. EL95–19–001, San Diego Gas & Electric Company. Order on reconsideration.
E–2.
Docket No. RM94–14–000, Nuclear Plant Decommissioning Trust Fund Guidelines. Final Rule.

**Oil and Gas Agenda**

*I. Pipeline Rate Matters*

PR–1. (A)
Docket No. PL94–4–000, Pricing Policy For New and Existing Facilities Constructed by Interstate Natural Gas Pipelines. Pricing Policy for New and Existing Facilities.
(B) Docket Nos. CP94–6–000 and 002, Texas Eastern Transmission Corporation Docket Nos. CP94–89–000 and 001, CNG Transmission Corporation. Order on rehearing.
(C) Docket No. CP94–679–001, Great Lakes Gas Transmission Limited Partnership. Order on rehearing.
(D) Docket Nos. RP93–5–000, 001 and RP93–96–000, Northwest Pipeline Corporation. Opinion and Order on Initial Decision.

*I. Pipeline Certificate Matters*

PC–1.
Docket No. RP95–212–000, KansOk Partnership, Kansas Pipeline Partnership, Kansas Natural Partnership and Riverside Pipeline Company, L.P.. Order to show cause.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 95–13224 Filed 5–25–95; 1:09 pm]

BILLING CODE 6717–01–P

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**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of May 29, June 5, 12, and 19, 1995.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of May 29**

*Thursday, June 1*

10:00 a.m.
Briefing on Electricity Forecast from Energy Information Administration (EIA) Annual Energy Outlook (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
(Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting.)
a. Kenneth G. Pierce (Shorewood, Illinois), Initial Decision (Vacating Staff Order), LBP–95–04, Docket Nos. 55–30662–EA, IA–94–007 (Tentative)
b. Final Amendments to 10 CFR Part 72 to Establish the Emergency Preparedness Licensing Regulations for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS) (Tentative)
(Contact: Andrew Bates, 301–415–1963)
1:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)
2:00 p.m.
Briefing on Steam Generator Issues (Public Meeting)
(Contact: Brian Sheron, (301–415–2722)

**Week of June 5—Tentative**

*Thursday, June 8*

9:30 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)
11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (If needed)

*Friday, June 9*

9:00 a.m.
Briefing by DOE High Level Waste Program (Public Meeting)
10:30 a.m.
Briefing by DOE on Status of Multi-Purpose Canisters (MPC) (Public Meeting)

**Week of June 12—Tentative**

*Wednesday, June 14*

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of June 19—Tentative**

*Wednesday, June 21*

9:00 a.m.
Discussion of Management Issues (Closed—Ex. 2 and 6)
10:30 a.m.
Briefing on NRC Use of Expert Elicitation in HLW Performance Assessments (Public Meeting) (Contact: Janet Kotra, 301–415–6674)

*Thursday, June 22*

9:30 a.m.
Briefing on Results of Senior Management Review of Operating Reactors, Fuel Facilities, and Related Activities (Public Meeting) (Contact: Victor McCree, 301–415–1711)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Note:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

**CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415–1661.

* * * * *

This notice is distributed by mail to several hundred subscribes; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

* * * * *

Dated: May 25, 1995.

**William M. Hill, Jr.,**

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 95–13285 Filed 5–25–95; 2:58 pm]

**BILLING CODE 7590–01–M**

Federal Register

Tuesday
May 30, 1995

## Part II

# Environmental Protection Agency

**40 CFR Part 433, et al.**

**Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Metal Products and Machinery; Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 433, 438 and 464**

**[FRL–5186–6]**

**RIN 2040–AB79**

## Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Metal Products and Machinery

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed regulation establishes technology-based limits for the discharge of pollutants into waters of the United States and into publicly owned treatment works by existing and new facilities that manufacture, maintain or rebuild finished metal parts, products or machines.

This proposed regulation will reduce the discharge of toxic pollutants from Metal Products and Machinery (MP&M) facilities by almost a million pounds per year, thereby reducing violations of water quality standards (which were established to protect aquatic life and/or human health) in water bodies across the country. This proposed regulation will also reduce the metals content of municipal sludge, thereby allowing approximately 184 additional POTWs to land apply another 439,000 dry metric tons of sewage sludge rather than incinerating or landfilling the sludge.

As a result of consultations with numerous stakeholders, the preamble solicits comments and data not only on issues raised by EPA, but also on those raised by environmental groups, by state and local governments who will be implementing these regulations, and by industry representatives who will be affected by them. As indicated elsewhere throughout this proposal, the Agency welcomes comment on all options, issues, and proposed decisions and encourages commentors to submit additional data during the comment period (See Section XIX of this preamble). The Agency plans to have additional discussions with interested parties during the comment period to help ensure that the Agency has the views of such parties and the best possible data upon which to base decisions for the final rule. EPA's final rule may be based upon any technologies, rationale or approaches that are a logical outgrowth of this proposal, including any options discussed in this or subsequent documents.

**DATES:** Comments on the proposal must be received by August 28, 1995. In addition, EPA will conduct a workshop covering this rulemaking, in conjunction with a public hearing on the pretreatment standards portion of the rule. The public hearing and the workshop will be held on June 28, 1995. Persons wishing to present formal comments at the public hearing should have a written copy for submittal.

**ADDRESSES:** Submit comments in writing, and if possible on a 3.5 inch disk in Word Perfect 5.1 format to: Mr. Steven Geil, Engineering & Analysis Division (4303), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

The public hearing and the workshop will be held starting at 9 a.m. at the Hall of States, room 333, 444 North Capital Street, Washington, DC 20001.

The public record for this rulemaking is available for review at the EPA's Water Docket; 401 M Street, SW., Washington, DC 20460; call between 9 a.m. and 3:30 p.m. Eastern Standard Time for an appointment. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying. For access to Docket materials, call (202) 260–3027.

**FOR FURTHER INFORMATION CONTACT:** For additional technical information, contact Mr. Steven Geil at (202) 260–9817. Additional economic information may be obtained by contacting Dr. Lynne G. Tudor at (202) 260–5834. Background documents supporting the proposed regulations are described in the ''Background Documents'' section below. Some of the documents are available from the Office of Water Resource Center, Mail Code RC–4100, US EPA, 401 M Street SW., Washington, DC 20460; telephone (202) 260–7786 for the voice mail publication request line.

**SUPPLEMENTARY INFORMATION:**

### Overview

This preamble describes the scope, purpose, legal authority and background of this rule, the technical and economic bases, and the methodology used by the Agency to develop these effluent limitations guidelines and standards.

Abbreviations, acronyms, and other terms used in the Supplementary Information Section are defined in Appendix A to this notice.

### Background Documents

The regulation proposed today is supported by the major documents listed below. (1) EPA's technical conclusions concerning the regulations are detailed in the ''Development Document for Proposed Effluent Limitations Guidelines and Standards for the Metal Products and Machinery Phase I Point Source Category,'' hereafter referred to as the Technical Development Document (EPA 821–R–95–021). (2) The Agency's economic and regulatory flexibility analyses are found in the ''Economic Impact of Proposed Effluent Limitations Guidelines and Standards For The Metal Products And Machinery Industry Phase I,'' hereafter referred to as the Economic Impact Analysis (EPA 821–5–95–022). (3) The industry profile is described in the ''Industry Profile Of The Metal Products And Machinery Industry Phase I,'' (EPA 821–R–95–024). (4) The regulatory impact analysis (including the Agency's assessment of environmental benefits) is detailed in the ''Regulatory Impact Assessment of Proposed Effluent Limitations Guidelines and Standards for the Metal Products and Machinery Industry Phase I,'' hereafter referred to as the Regulatory Impact Assessment (EPA 821–R–95–023). (5) An analysis of the incremental costs and pollutant removals is presented in ''Cost Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards for the Metal Products and Machinery Phase I Point Source Category,'' (EPA 821–R–95–025). (6) The statistical support for today's proposal is found in reports on the information screener survey (called the Mini Data Collection Portfolio), the detailed questionnaire (call the Data Collection Portfolio), and the calculation of limits.

*Outline:* This preamble is organized according to the following outline:

## I. Legal Authority

This regulation is being proposed under the authorities of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act, 33 U.S.C. Sections 1311, 1314, 1316, 1317, 1318, and 1361; and under authority of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13101 et seq., Pub. L. 101-508, November 5, 1990.

## II. Background

### *A. Statutory Requirements of Regulation*

The objective of the Clean Water Act (''Act'') is to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' (section 101(a)). To assist in achieving this objective, EPA is to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

These guidelines and standards are summarized briefly below:

1. Best Practicable Control Technology Currently Available (BPT) (Section 304(b)(1) of the Act)

BPT effluent limitations guidelines are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory for control of pollutants.

In establishing BPT effluent limitations guidelines, EPA considers the total cost of achieving effluent reductions in relation to the effluent reduction benefits, the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements) and other factors as the EPA Administrator deems appropriate (section 304(b)(1)(B) of the Act). The Agency considers the category or subcategory-wide cost of applying the technology in relation to the effluent reduction benefits. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category.

2. Best Available Technology Economically Achievable (BAT) (Section 304(b)(2) of the Act)

In general, BAT effluent limitations represent the best existing economically achievable performance of plants in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic pollutants and nonconventional pollutants to navigable waters. The factors considered in assessing BAT include the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts (including energy requirements) (section 304(b)(2)(B)). The Agency retains considerable discretion in assigning the weight to be accorded these factors. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when these technologies are not common industry practice.

3. Best Conventional Pollutant Control Technology (BCT) (Section 304(b)(4) of the Act)

The 1977 Amendments to the Act established BCT for discharges of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: Biochemical oxygen demanding pollutants (BOD), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an

additional conventional pollutant on July 30, 1979 (44 FR 44501).

BCT replaces BAT for the control of conventional pollutants for certain facilities. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be established in light of a two part ''cost-reasonableness'' test. EPA's current methodology for the general development of BCT limitations was issued in 1986 (51 FR 24974; July 9, 1986).

4. New Source Performance Standards (NSPS) (Section 306 of the Act)

NSPS are based on the best available demonstrated treatment technology. New plants have the opportunity to install the best and most efficient production processes and waste water treatment technologies. As a result, NSPS should represent the most stringent numerical values attainable through the application of the best available control technology for all pollutants (i.e., conventional, nonconventional, and toxic pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES) (Section 307(b) of the Act)

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTWs). The Act requires pretreatment standards for pollutants that pass through POTWs or interfere with POTWs' treatment processes or sludge disposal methods. The Act requires industry to achieve PSES within three years of promulgation. Pretreatment standards are technology-based and analogous to the BAT effluent limitations guidelines. For the purpose of determining whether to promulgate national category-wide pretreatment standards, EPA generally determines that there is pass-through of a pollutant and thus a need for categorical standards if the nation-wide average percent removal of a pollutant removed by well-operated POTWs achieving secondary treatment is less than the percent removed by the BAT model treatment system.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR Part 403. Those regulations contain a definition of pass-through that addresses localized rather than national instances of pass-through and does not use the percent removal comparison test described above. See 52 FR 1586 (January 14, 1987.)

6. Pretreatment Standards for New Sources (PSNS) (Section 307(b) of the Act)

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like the new direct dischargers, have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

7. Best Management Practices (BMP)

The Agency is not proposing BMPs for MP&M. However, we are soliciting comment on whether BMPs could be promulgated in lieu of numeric limitations for low discharge volume sites. EPA has defined BMPs broadly (40 CFR 122.2) and is considering whether numeric limitations are infeasible for such sites because of the administrative burdens imposed on permitting authorities to develop, implement, and monitor necessary permits. BMP's could also cause pretreatment permitting to be more efficient and less costly for both control authorities and dischargers. The use of BMP's instead of flow monitoring associated with mass-based limits could result in greater efficiencies and cost savings for both control authorities and discharges. Properly implemented, BMP's could provide environmental protection equivalent to mass-based limits at a lower cost. Since some Control Authorities pass their costs along to industrial users in the form of service fees, cost savings to Control Authorities could be passed along to industrial users. BMPs could include any of the in-process pollution prevention or flow reduction technologies discussed in the MP&M public record and pollution prevention bibliography section of the Technical Development Document.

*B. Litigation History*

Section 304(m) of the Act (33 U.S.C. 1314(m)), added by the Water Quality Act of 1987, requires EPA to establish schedules for (i) reviewing and revising existing effluent limitations guidelines and standards (''effluent guidelines''), and (ii) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (55 FR 80), in which schedules were established for developing new and revised effluent guidelines for several industry categories. One of the industries for which the Agency established a schedule was the Machinery Manufacturing and Rebuilding Category (the name was changed to Metal Products and Machinery in 1992).

Natural Resources Defense Council, Inc. (NRDC) and Public Citizen, Inc. challenged the Effluent Guidelines Plan in a suit filed in U.S. District Court for the District of Columbia (*NRDC et al* v. *Reilly*, Civ. No. 89–2980). The plaintiffs charged that EPA's plan did not meet the requirements of section 304(m). A Consent Decree in this litigation was entered by the Court on January 31, 1992. The terms of the Consent Decree are reflected in the Effluent Guidelines Plan published on September 8, 1992 (57 FR 41000). This plan requires, among other things, that EPA propose effluent guidelines for the Metal Products and Machinery (MP&M) category by November, 1994 and take final action on these effluent guidelines by May, 1996. The most recent Effluent Guidelines Plan was published on August 26, 1994 (59 FR 44235). EPA filed a motion with the court on September 28, 1994, requesting an extension of time until March 31, 1995, for the EPA Administrator to sign the proposed regulation and a subsequent four month extension for signature of the final regulation in September 1996.

*C. Pollution Prevention Act*

The Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 et seq., Pub. L. 101–508, November 5, 1990) makes pollution prevention the national policy of the United States. The PPA identifies an environmental management hierarchy in which pollution ''should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort * * *'' (42 U.S.C. 13103). In short, preventing pollution before it is created is preferable to trying to manage, treat or dispose of it after it is created. According to the PPA, source reduction reduces the generation and release of hazardous substances, pollutants, wastes, contaminants or residuals at the source, usually within a process. The term source reduction ''* * * includes equipment or technology modifications,

process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. The term 'source reduction' does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to or necessary for the production of a product or the providing of a service.'' In effect, source reduction means reducing the amount of a pollutant that enters a waste stream or that is otherwise released into the environment prior to out-of-process recycling, treatment, or disposal.

The PPA directs the Agency to, among other things, ''* * * review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction'' (42 U.S.C. 13103). This directive led the Agency to implement a pilot project called the Source Reduction Review Project that would facilitate the integration of source reduction in the Agency's regulations, including the technology based effluent guidelines and standards. (see Section IV. B. for a more complete discussion of the Source Reduction Review Project.) The MP&M Phase I category effluent guideline was included in the Source Reduction Review Project.

*D. Common Sense Initiative*

On October 17, 1994, the Administrator established the Common Sense Initiative (CSI) Council in accordance with Federal Advisory Committee Act (U.S.C. App. 2, Section 9(c)) requirements. One of the goals of the CSI is to develop recommendations for optimal multi-media approaches to address environmental problems associated with six industrial sectors including Metal Plating and Finishing, Electronics and Computers, Auto Assembly, and Iron and Steel Manufacturing. The current Clean Water Act MP&M rulemaking studies, which were initiated in 1989, overlap to varying degrees these six CSI pilot industrial sectors.

The following are the six elements of the CSI program, as stated in the ''Advisory Committee Charter.''

1. *Regulation.* Review existing regulations for opportunities to get better environmental results at less cost. Improve new rules through increased coordination.

2. *Pollution Prevention.* Actively promote pollution prevention as the standard business practice and a central ethic of environmental protection.

3. *Recordkeeping and Reporting.* Make it easier to provide, use, and publicly disseminate relevant pollution and environmental information.

4. *Compliance and Enforcement.* Find innovative ways to assist companies that seek to comply and exceed legal requirements while consistently enforcing the law for those that do not achieve compliance.

5. *Permitting.* Improve permitting so that it works more efficiently, encourages innovation, and creates more opportunities for public participation.

6. *Environmental Technology.* Give Industry the incentives and flexibility to develop innovative technologies that meet and exceed environmental standards while cutting costs.

In addition, it is the intent of the Agency to work with the CSI's sector teams and further integrate their consensus recommendations applicable to the MP&M Phase I proposal as they are developed. Even though the MP&M Phase I data collection and analysis efforts were completed before the CSI program was announced, many aspects of the CSI objectives are reflected in the MP&M proposal. As part of the development of this proposal, EPA took advantage of several opportunities to gain the involvement of various stakeholders. For example, a public meeting was held in March of 1994 to present the technology options under consideration by the Agency. We have addressed industry trade associations, the Association of Metropolitan Sewerage Authorities, pretreatment coordinators from the Regions, States, and municipalities, and the Effluent Guidelines Task Force, and we have met with environmental interest group representatives. We have used comments and concerns raised at these meetings to frame solicitations for data and comment on aspects of this regulation ranging from pollution prevention to implementation issues. The MP&M Phase I proposal was based in part on pollution prevention for the largest dischargers, and the technical documents that support the proposal provide guidance on pollution prevention techniques applicable to this industry for use by all facilities. This proposal is performance-based and does not stipulate the use of specific control or treatment technologies. Industry retains the flexibility to develop or select innovative technologies that meet or exceed the performance-based standards proposed today. EPA considered cost effectiveness as part of the overall MP&M Phase I effluent guideline development process. The MP&M Phase II effluent guideline development process will further support the CSI.

*E. Consultation (Executive Order 12875)*

Executive Order 12875, ''Enhancing the Intergovernmental Partnership'' requires Federal Agencies to consider the impacts of unfunded mandates on state, local, or tribal governments. Agencies, such as the EPA, that can impose unfunded mandates on state, local, or tribal governments are required by Executive Order 12875 to ensure that the Federal government either allocates the funds necessary for compliance or involves the affected agencies in the regulatory development process. The proposed MP&M Phase I regulation establishes effluent limitations guidelines and pretreatment standards that will directly impact the state and local waste water permitting process. The primary impact of the proposed MP&M Phase I regulation on state and local regulatory agencies will be that an increased number of permits will have to be issued. The cost associated with writing additional permits for direct dischargers based on national guidelines may be partially offset by a decrease in the expenses associated with writing individual permits based on local conditions or best professional judgment (BPJ). In general, EPA believes that the cost of individual permits for direct dischargers may be reduced by the MP&M Phase I rule, because fewer resources are required to issue effluent-guideline-based permits than to issue BPJ-based permits.

The proposed MP&M Phase I effluent guidelines will be implemented as part of the National Pollutant Discharge Elimination System (NPDES) and pretreatment permitting processes. An estimated 1,895 direct and 8,706 indirect discharging facilities will require permits under the proposed MP&M Phase I regulation. Although existing effluent guidelines such as metal finishing (40 CFR 433) and electroplating (40 CFR 413) cover some of these facilities (approximately 2,000), EPA expects a substantial net increase in the number of permits state and local regulatory agencies are required to write. The economic impact on industry associated with the additional permits is not expected to adversely affect industries that dominate local economies in a manner that would significantly alter state or local government revenues.

The administrative burden created by the proposed MP&M Phase I effluent guidelines may be partially offset by anticipated savings in the costs associated with writing individual permits. Currently, many permits are written based on BPJ criteria. The development of such permits is often

contentious and can require a significant investment in resources. The proposed MP&M Phase I guidelines are expected to require fewer resources to develop permits than those based on BPJ, since MP&M Phase I includes specific effluent guidelines and pretreatment standards. EPA solicits comments on the administrative burden associated with permits based on BPJ, permits based on effluent guidelines, and the relationship between the two.

The MP&M Phase I regulatory development process was closely coordinated with the public, industry groups, and other interested parties. MP&M regulation development summaries were presented at technical symposia and two public outreach meetings. In addition, comments regarding several implementation issues are included in today's notice (See Section XIX). Based on public comments, concerns will be addressed and, if applicable, incorporated into the final MP&M regulation.

EPA plans to continue the data collection and public outreach programs for MP&M Phase I. Consultation with other governmental activities will also be initiated early in MP&M Phase II regulation development to allow continued, effective compliance with E.O. 12875 requirements.

*F. Prior Regulation for Metals Industries*

EPA has established effluent guidelines regulations for thirteen industries which may perform operations that are sometimes found in MP&M Phase I facilities. These effluent guidelines are:

- Electroplating (40 CFR Part 413);
- Iron & Steel Manufacturing (40 CFR Part 420);
- Nonferrous Metals Manufacturing (40 CFR Part 421);
- Ferroalloy Manufacturing (40 CFR Part 424);
- Metal Finishing (40 CFR Part 433);
- Battery Manufacturing (40 CFR Part 461);
- Metal Molding & Casting (40 CFR Part 464);
- Coil Coating (40 CFR Part 465);
- Porcelain Enameling (40 CFR Part 466);
- Aluminum Forming (40 CFR Part 467);
- Copper Forming (40 CFR Part 468);
- Electrical & Electronic Components (40 CFR Part 469); and
- Nonferrous Metals Forming & Metal Powders (40 CFR Part 471).

These existing effluent guidelines generally apply to the production of semi-finished products, while the MP&M Phase I category applies to finished metal parts, products, and machines. EPA recognizes that unit operations performed in industries covered by the existing effluent guidelines generate waste water similar to unit operations performed at MP&M Phase I sites. A discussion of how these guidelines are integrated with the regulations proposed today is continued in the following section.

*G. Scope of Today's Proposed Rule*

The MP&M Phase I category applies to industrial sites engaged in the manufacturing, maintaining or rebuilding of finished metal parts, products or machines. Today's proposed effluent guideline (MP&M Phase I) applies to process waste water discharges from sites performing manufacturing, rebuilding or maintenance on a metal part, product or machine to be used in one of the following industrial sectors:

- Aerospace;
- Aircraft;
- Electronic Equipment;
- Hardware;
- Mobile Industrial Equipment;
- Ordnance; and
- Stationary Industrial Equipment.

MP&M Phase II will be proposed and promulgated approximately three years after the MP&M Phase I schedule. EPA currently intends to cover the following eight industrial sectors in MP&M Phase II:

- Bus and Truck;
- Household Equipment;
- Instruments;
- Motor Vehicle;
- Office Machine;
- Precious and Nonprecious Metals;
- Railroad; and
- Ships and Boats.

EPA has identified these fifteen industrial sectors in the MP&M category; these sectors manufacture, maintain and rebuild products under more than 200 different SIC codes. In order to make the regulation more manageable, EPA has divided it into the two phases discussed above; lists of typical products manufactured within the two MP&M phases are included as appendices to the proposed regulation. Although EPA believes that it has clearly defined what the fifteen sectors are and how they have been divided into two phases for the purposes of regulation, EPA expects that some products will clearly fit within certain industry sectors while others will be more difficult to define. Some examples of how the proposed MP&M Phase I regulation would apply are provided below for clarification.

An example of a clear fit would be a site which manufactures aircraft engines. The site would be considered to be within the aircraft industrial sector of MP&M. Since aircraft is an MP&M Phase I industry, the aircraft engine manufacturer would be covered by MP&M Phase I.

Another example of a clear fit would be a site which manufactures school buses. The site would be considered to be within the bus and truck industrial sector of MP&M. Since bus and truck is an MP&M Phase II industry, the school bus manufacturer would be covered by MP&M Phase II.

An example of a site which produces products which would fall under more than one MP&M Phase I industry would be a site which manufacturers farm tractors and farm conveyors. The site would be considered to be within the mobile industrial equipment and the stationary industrial equipment sectors. Since both mobile industrial equipment and stationary industrial equipment are MP&M Phase I industries, the farm tractor and farm conveyor manufacturer would be covered by MP&M Phase I. Although MP&M Phase I covers seven industrial categories, the proposed rule is not subcategorized by industrial sector (See Section VI). Instead, all seven MP&M Phase I industries are grouped together under one MP&M Phase I category.

An example of a site that produces products within an MP&M Phase I industry and an MP&M Phase II industry would be a site which manufactures hand tools and household cooking equipment. The site would be considered to be within the hardware and household equipment sectors. Since hardware is an MP&M Phase I industry and household equipment is an MP&M Phase II industry, the site has operations in both MP&M phases. As discussed further below, EPA proposes to apply the MP&M Phase I rule to sites with operations in both MP&M Phase I and MP&M Phase II. As a result, all of the site's operations (including those performed to manufacture the cooking equipment) would be covered under MP&M Phase I. The coverage of sites that might be assigned to either Phase I or II is discussed further below.

An example of a site which manufactures products which could be difficult to assign to a specific MP&M industrial sector would be a car door handle manufacturing site. If a car door handle were considered a piece of hardware, then the site would fit under MP&M Phase I (hardware industrial sector). If, on the other hand, the door handle were considered a motor vehicle part, then the site would fit under MP&M Phase II (motor vehicle industrial sector). In cases where

products could be viewed under different industrial sectors, EPA proposes that the industrial sector(s) which most accurately matches the market into which the product is sold be assigned. In addition, if a metal part has a specific use in one of the fifteen MP&M industrial sectors, then the sector in which it is intended to be used is the industrial sector that should be assigned to that site. In this example, the car door handle has no other uses than operating the door of a car, and this site would be considered a motor vehicle site (MP&M Phase II).

Another example of a site which produces products which could be difficult to assign to a specific MP&M industrial sector would be a site which manufactures pistons for use in internal combustion engines, stationary generators, automotive engines, aircraft engines, truck engines, etc. Since the pistons are used in a wide variety of industrial applications and are not produced for use in a specific MP&M industry, the piston manufacture should be considered to be making a fabricated metal product and be covered under MP&M Phase I (hardware).

EPA is soliciting comment from any industrial site which has the potential to be covered by MP&M but is uncertain as to their appropriate industrial sector and phase (MP&M Phase I or MP&M Phase II) classification. These sites are requested to supply information about what operations they are performing, what products they are manufacturing, and to what industries they are selling their products.

As discussed above, some MP&M sites will have operations in both MP&M Phase I and Phase II industries. EPA proposes to apply the MP&M Phase I regulation to combined waste water discharges when a site is manufacturing, rebuilding or maintaining finished metal products in both Phase I and Phase II sectors.

For example, a site manufacturing aircraft components and discharging process waste water in the process is included in the aircraft sector and thus its waste water discharges would be regulated by MP&M Phase I effluent guidelines. Another site which manufactures components that are used in aircraft and ships and generates waste water in the process which is combined and discharged would also be regulated by the MP&M Phase I effluent guidelines for the combined discharge. This proposal should alleviate burdens on the permit writers and allow the site to achieve compliance more cost effectively, since they will have to comply with one set of limits.

EPA's data collection and analysis of MP&M sites included MP&M Phase I and Phase II overlap sites and processing of both Phase I and II parts at these sites. Many of these sites use the same equipment to manufacture, maintain, and rebuild goods for both Phase I and Phase II sectors, making it impossible to separate the two phases, and in many cases impossible to distinguish among the sectors, for these sites.

Typical MP&M unit operations include any one or more of the following: abrasive blasting, abrasive jet machining, acid treatment, adhesive bonding, alkaline treatment, anodizing, assembly, barrel finishing, brazing, burnishing, calibration, chemical conversion coating, chemical machining, corrosion preventive coating, disassembly, electrical discharge machining, electrochemical machining, electrolytic cleaning, electroplating, electron beam machining, electropolishing, floor cleaning, grinding, heat treating, hot-dip coating, impact deformation, laminating, laser beam machining, machining, metal spraying, painting, plating, plasma arc machining, polishing, pressure deformation, rinsing, salt bath descaling, soldering, solvent degreasing, sputtering, stripping, testing, thermal cutting, thermal infusion, ultrasonic machining, vacuum metalizing, welding and numerous sub-operations within those listed above. In addition to waste water that is generated from these operations, these operations also frequently have associated rinses and water-discharging air pollution control devices which are also included under the scope of today's proposed regulation.

Waste water from noncontact, nondestructive testing is also included under the scope of today's proposed regulation. A common source of ''testing'' waste water is photographic waste from nondestructive X-ray examination of parts.

Many MP&M sites will also have operations covered by one of the existing metal processing effluent guidelines listed above in Section II.D. In general, with the exception of the metal finishing regulations, the existing effluent guideline will continue to apply to those operations judged to be covered by it. MP&M will provide the basis for establishing permit limitations for the unit operations which at present are not covered, covered by the metal finishing effluent guidelines regulation, or covered by best professional judgment. EPA is proposing to require that the MP&M Phase I effluent guidelines regulation replace the metal finishing regulation for sites with operations in an MP&M Phase I industrial sector. Both MP&M and metal finishing apply to the same types of unit operations. EPA has included the metal finishing sites in its data collection and study of the MP&M industry and has estimated the costs and impacts on these sites to comply with the proposed MP&M regulation. EPA anticipates that today's proposed limitations will impose more stringent requirements on waste water discharges from MP&M/metal finishing sites without undue economic impacts (see Section XIV), and therefore is proposing that MP&M replace metal finishing regulations for sites satisfying the MP&M Phase I criteria. Today's proposal does not apply to surface finishing job shops and independent circuit board manufacturers as defined in this regulation; they will continue to be covered by 40 CFR Part 413 and 40 CFR Part 433.

''Surface finishing job shops'' defined in the proposed MP&M regulation are identical to ''job shops'' defined in the metal finishing category (40 CFR 433). Indirectly discharging job shops which were considered existing for the metal finishing category (existing prior to August 31, 1982) and independent printed circuit board manufacturers will continue to be covered by the electroplating category (40 CFR 413). Indirectly discharging jobs shops which were considered new sources for the metal finishing category and directly discharging job shops will continue to be covered by the metal finishing category.

## III. Summary of Proposed Regulations

### *A. BPT*

EPA is proposing to establish concentration-based BPT limitations which reflect the best practicable technology performance. EPA proposes to require permit writers to convert the concentration-based limitations into mass-based limitations based on MP&M flow guidance in the MP&M Phase I Technical Development Document. This document provides guidance to permit writers on identifying sites with pollution prevention and water conservation technologies equivalent to those listed above (e.g., electrodialysis, reverse osmosis). EPA recognizes that there are many different pollution prevention and water conservation technologies that may achieve the same performance as those listed above; therefore, the Agency has provided permit writers guidance on assessing these technologies.

EPA recommends that, for sites with pollution prevention and water

conservation technologies in place that are equivalent to those included as the basis for BPT, permit writers use historical flow as a basis for converting the concentration-based limitations to mass-based. For sites without these types of technologies in place, EPA recommends that permit writers do not use historical flow, but use other tools listed in the development document (e.g., measuring production through unit operations, measuring the concentration of total dissolved solids (TDS) in rinse waters) to convert the concentration-based limitations to mass-based. This approach encourages sites to implement good water use practices and investigate and install pollution prevention and water conservation technologies. By recommending use of historical flow only when sites have pollution prevention and water conservation technologies in place, EPA expects that permits based on BPT will reflect pollution prevention and water conservation technologies. If mass-based limitations have not been developed as required, the source shall achieve discharges not exceeding the concentration limitations listed in the regulation.

The technology basis for BPT is end-of-pipe treatment using chemical precipitation and sedimentation (commonly referred to as lime and settle technology), used in conjunction with flow reduction and pollution prevention technologies. EPA has also included the following as a basis for BPT limits: oil-water separation through chemical emulsion breaking and either skimming or coalescing; cyanide destruction through alkaline chlorination; chemical reduction of hexavalent chromium; chemical reduction of chelated metals; and contract hauling of organic solvent-bearing waste waters. The technology basis of BPT is to apply these preliminary treatment technologies when necessary based on waste water characteristics.

The following in-process pollution prevention and water conservation technologies were included as a basis for BPT:

—Flow reduction using flow restrictors, conductivity meters, and/or timed rinses, for all flowing rinses, plus countercurrent cascade rinsing for all flowing rinses;
—Flow reduction using bath maintenance for all other process water-discharging operations;
—Centrifugation and 100 percent recycling of painting water curtains;
—Centrifugation and pasteurization to extend the life of water-soluble machining coolants, reducing discharge volume by 80 percent; and
—In-process metals recovery with ion exchange followed by electrolytic recovery of the cation regenerants for selected electroplating rinses. This includes first stage drag-out rinsing with electrolytic metal recovery.

The discharge limitations included in today's proposal are based on the technology discussed above. However, it is important to note that these technologies are not mandated under effluent guidelines and pretreatment standards. Sites which would be covered by this proposed rule would be required to meet the discharge limitations but would not be required to use the technology basis discussed above.

*B. BCT*

EPA is proposing to establish BCT limitations equivalent to BPT limitations.

*C. BAT*

EPA is proposing to establish BAT limitations equivalent to BPT limitations.

*D. NSPS*

EPA is proposing to establish NSPS equivalent to BAT limitations.

*E. PSES*

EPA is proposing to establish PSES equivalent to BAT limitations. Facilities with an annual discharge volume less than 1,000,000 gallons are proposed to be exempt from PSES. For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day.

*F. PSNS*

EPA is proposing to establish PSNS equivalent to BAT.

## IV. Overview of the Industry

*A. Industry Description*

As discussed above, the MP&M Phase I Category covers sites that generate waste water while manufacturing, maintaining or rebuilding finished metal parts, metal products, and machinery EPA within 7 industrial sectors. See the discussion under Section II.G. of this notice for the scope of today's proposed rule.

MP&M sites perform a wide variety of process unit operations on metal parts. For a given MP&M site, the specific unit operations performed and the sequence of operations depend on many factors, including the activity (i.e., manufacturing, rebuilding, or maintenance), industrial sector, and type of product processed. MP&M sites that repair, rebuild, or maintain products often perform preliminary operations that may not be performed at manufacturing facilities (e.g., disassembly, cleaning, or degreasing to remove dirt and oil accumulated during use of the product). Sites that manufacture products required to meet very strict performance specifications (e.g., aerospace or electronic components) often perform unit operations such as gold electroplating or magnetic flux testing that may not be performed when manufacturing other products.

EPA identified 47 unit operations as typical operations performed at MP&M Phase I sites. The following general types of unit operations are included in Phase I of the MP&M Category:

- Metal shaping operations;
- Surface preparation operations;
- Metal deposition operations;
- Organic deposition operations;
- Surface finishing operations; and
- Assembly operations.

Metal shaping operations (e.g., machining, grinding, impact and pressure deformation) are mechanical operations that alter the form of raw materials into intermediate and final product forms. Surface preparation operations (e.g., alkaline treatment, barrel finishing and etching) are chemical and mechanical operations that remove unwanted materials from or alter the chemical or physical properties of the surface prior to subsequent MP&M operations. Metal deposition operations (e.g., electroplating, metal spraying) apply a metal coating to the part surface by chemical or physical means. Organic deposition operations (e.g., painting, corrosion preventive coating) apply an organic material to the part by chemical or physical means. Metal and organic deposition operations may be performed for reasons such as protecting the surface from wear or corrosion, altering the electrical properties of the surface, or altering the appearance of the surface. Surface finishing operations (e.g., chromate conversion coating, anodizing, sealing) protect and seal the surface of the treated part from wear or corrosion by chemical means. Assembly operations (e.g., welding, soldering, testing, assembly) are performed to complete the manufacturing, rebuilding, or maintenance process.

Revenues at Phase I MP&M sites range from less than $10,000 to more than $50 million (in 1989 dollars) annually. Phase I MP&M sites range in size from less than 10 employees and waste water discharge flows of less than 100 gallons per year to sites with tens of thousands of employees and waste water discharge

flows exceeding 100 million gallons per year. Table 1 presents information on the waste water discharge flow ranges for Phase I MP&M sites based on responses to EPA's survey (See Section V.B. below).

TABLE 1.—ESTIMATED DISTRIBUTION OF SITES BY BASELINE RANGE OF FLOW

| Flow range (gal/yr/site) | Estimated number of sites | Estimated total flow in range (millions of gal/year) | Estimated total load in range (millions of lbs/year) | Estimated percent of total sites | Estimated percent of total flow | Estimated percent of total load |
|---|---|---|---|---|---|---|
| 0–10,000 | 3,216 | 4.6 | 3.5 | 30 | <1 | 1 |
| 10,000–1,000,000 | 5,109 | 800 | 150 | 48 | 3 | 8 |
| Greater than 1,000,000 | 2,276 | 22,000 | 1,500 | 22 | 97 | 91 |
| Totals | 10,601 | 23,000 | 1,600 | 100 | 100 | 100 |

Source: 1989 Data Collection Portfolio.

As shown in Table 1, sites discharging more than 1,000,000 gallons per year (approximately 22% of the total Phase I sites) account for approximately 97% of the total waste water discharge and 91% of the pollutant load from the industry. For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day. In contrast, sites discharging less than 10,000 gallons per year (approximately 30% of the total Phase I sites) account for less than one percent of the overall waste water discharge flow and approximately one percent of the pollutant load for the industry. For a site operating 250 days per year, 10,000 gallons per year translates into an average discharge flow rate of 40 gallons per day.

This regulation applies to process wastewater discharges from plants or portions of plants within the MP&M Phase I industries that manufacture, maintain, or rebuild finished metal parts, products or machines from any basis metal. A ''plant or portion of a plant'' is defined to include all activities or facilities located in a single building or on a contiguous parcel of property that are engaged in performing an MP&M-related industrial function. For instance, if an entity operates a chrome plating operation and, on a non-adjoining parcel of property and within the same fence line, operates a runway or vehicle maintenance shop, discharges resulting from these different activities would not be considered discharges from a single plant.

EPA seeks comments on how to define which parcels of property within the same fence line on a mixed use property are contiguous. For example, should properties be divided into a system of grids with all discharges from sites within a single sector considered contiguous? Should discharges from a single building be treated as a plant or portion of a plant for purposes of determining the volume of discharge subject to regulation? Another option would be for permit writers to make the determination case-by-case based on some degree of proximity between industrial operations and a practical application of the requirements for MP&M Phase I industries (with due consideration to the amount of MP&M Phase I wastestream and its concentration in the overall wastestream discharged to the treatment works), the degree to which functions are related, and such other factors as EPA considers relevant to the determination.

This definition is relevant in the determination of the amount of wastewater generated by a plant and the applicability of the provisions for small volume indirect dischargers. It is particularly important in the case of federal, state, and local government agencies or entities that perform highly varied function, more than one of which may be an MP&M Phase I or II activity located in separate areas of the same facility. For instance, one of the military services may operate an airfield, a metal plating facility, and a motor pool. While each of these facilities would be considered a plant, it would be illogical to consider the entire mixed use facility to be a single plant and to calculate its discharges collectively.

Unlike the typical industrial plant, such as an aircraft or electronic equipment manufacturing plant with one primary manufacturing activity, the majority of military installations are mixed use facilities and more like municipalities with several small industries as well as other operations within their boundaries; they support a unique and wide variety of functions and activities, including residential housing, schools, churches, recreational parks, shopping centers, industrial operations, training ranges, airports, gas stations, utility plants, police and fire departments, and hospitals. Installations also include a variety of tenant activities, including contractor and other Department of Defense federal agency activities. Finally, the geographic size of many military installations (for example, over 300 square miles at Fort Hood, TX and over 1.1 million acres at the China Lake Naval Air Warfare Center, CA) makes it difficult to treat them as a single plant. Treating military installations or other mixed use facilities as multiple plants or portions of plants allows them to take advantage of any less stringent requirements for small volume indirect dischargers without significantly increasing the threat to human health or the environment. EPA seeks information from other facilities that believe they would fall within this mixed use facility category.

### *B. Estimation of Number of MP&M Phase I Sites*

Between 1986 and 1989, EPA conducted a preliminary study of the MP&M industry. For this study, EPA identified over 200 SIC codes pertaining to sites that would be included in the MP&M category (including Phase I and Phase II). Using information from Dun & Bradstreet, EPA estimated that there were 970,000 sites within these SIC codes, including 278,000 with more than nine employees. This estimate did not quantify the number of water-discharging MP&M sites. The basis for these estimates and a discussion of how EPA identified the SIC codes included in the MP&M category are presented in the *Preliminary Data Summary For The Machinery Manufacturing and Rebuilding Industry* (EPA 440/1–89/106, October 1989).

As discussed above, to make the regulatory process for such a large number of sites more manageable, EPA decided to divide the MP&M category into two segments and to develop effluent guidelines regulations in phases. This is also described in EPA's regulatory plan published on January 2, 1990 (55 FR 80). The industrial sectors

in each phase are listed in Section II.G. Based on the Dun & Bradstreet estimates, Phase I sectors included approximately 195,000 sites. EPA used the information collected from Dun & Bradstreet to conduct a screener survey of Phase I manufacturing, rebuilding, and maintenance sites and Phase II manufacturing sites. This survey is described in Section V.B. The results of this survey indicated that there were approximately 80,000 MP&M Phase I sites. The difference between the two estimates (195,000 sites versus 80,000 sites) was caused primarily by sites misclassified by Dun & Bradstreet and sites that had gone out of business. Approximately 20,000 of the MP&M Phase I sites were identified by the screener survey as water-discharging sites.

EPA used the data collected by the screener survey to conduct a detailed survey of water-discharging MP&M Phase I sites. This questionnaire is described in Section V.B. This survey requested detailed information on unit operations and water use practices. The results of this survey indicated that there were an estimated 10,601 MP&M Phase I water-discharging sites. The difference between the two estimates of water-discharging sites was primarily caused by sites that had misinterpreted questions on the screener survey.

*C. Source Reduction Review Project*

Section 6604 of the PPA directs the Administrator to set up an office for the purpose, among other things, of reviewing for the EPA Administrator the impact that Agency regulations would have on source reduction (See 42 U.S.C. 13103). This office is to ''consider'' the effect of Agency programs on source reduction efforts and to ''review'' EPA's regulations prior and subsequent to their proposal to determine their effect on source reduction.

The Source Reduction Review Project (SRRP) is a pilot program of the EPA to promote a source reduction approach in designing environmental regulations. The project's goal is to ensure that source reduction measures and implications of rules to other regulatory programs are fully considered during development of regulations. To the extent practicable and consistent with existing law, and considering cost-effectiveness as appropriate, the Agency will emphasize source reduction as the basis of its rules. Where source reduction cannot be implemented, the Agency will consider recycling, then treatment and if necessary disposal technologies and practices as the basis of its rules. Even in cases where EPA cannot base its rule on source reduction practices, the Agency may encourage the regulated community to consider using source reduction measures to comply with rules by providing information and economic incentives. To investigate opportunities for source reduction, EPA will consider source reduction in every phase of rule development: data collection, site visits, bench-scale technology testing, economic and technical analysis, multi-media impacts and agency and public reporting.

Since initial data collection for MP&M preceded the PPA, the Agency did not collect much information about source reduction in the industry survey. Since the survey, the Agency has considered and evaluated opportunities for source reduction. In addition, the Office of Water has coordinated this rule with efforts by the Office of Air and Radiation to develop regulations for halogenated solvents, chromium electroplating, and others.

The primary sources of waste waters generated by this industry are water-based lubricants used in the metal working (machining or deformation operations) or process solutions and rinses associated with surface treatment operations (cleaning, chemical etching or surface finishing). These waste waters afford considerable opportunities for pollution prevention and water conservation. As described in Section VII of this preamble, EPA has studied and observed a number of pollution-preventing and/or waste water conserving practices at a wide range of metal products and machinery facilities. This information is included in the Technical Development Document for MP&M Phase I. Because of the pollution prevention opportunities demonstrated by this industry, the Agency has included this rule in the SRRP. Some of the research on waste water treatment described in the next section focuses on waste water treatment that also allows for product recovery.

The SRRP designation for the MP&M effluent guidelines has prompted EPA to look more closely at what some of the likely outcomes would be of applying the identified candidate BAT technologies. The Agency has looked beyond the usual estimation of the cost expected to be incurred by the industry to comply with this rule and the pollutants expected to be removed from the waste water stream. EPA also has estimated the savings that might be realized due to the water conservation and product recovery practices that are part of the best available technology. For example, EPA estimated the savings in water cost through flow reduction, as well as the reduction in costs for end-of-pipe treatment associated with flow reduction. EPA also estimated the cost savings from recovery of metals through electrolytic recovery, and savings in virgin coolant from reduction of coolant discharge through centrifugation and pasteurization.

## V. Data Gathering Efforts

*A. Databases*

In developing the MP&M effluent guidelines, EPA evaluated the following data sources:

- EPA/EAD databases from development of effluent guidelines for other metals industries;
- The Office of Research and Development (ORD) Risk Reduction Engineering Laboratory (RREL) treatability database;
- The Fate of Priority Pollutants in Publicly Owned Treatment Works (50 POTW Study) database;
- The Domestic Sewage Study; and
- The Toxics Release Inventory (TRI) database.

These data sources and their uses for the development of the MP&M Phase I effluent guidelines are discussed below.

EPA has promulgated effluent guidelines for 13 metals industries (See Section II.F. above). In developing these effluent guidelines, EPA collected waste water samples to characterize the unit operations and treatment systems at sites in these industries. Many of the sampled unit operations and treatment systems are operated at MP&M sites; therefore, EPA evaluated these data for transfer to the MP&M effluent guidelines development effort.

For the MP&M Phase I pollutant loading and waste water characterization efforts, EPA reviewed the data collected for unit operations performed at both MP&M sites and at sites in other metals industries. EPA reviewed the Technical Development Documents (TDDs), sampling episode reports (SERs), and supporting record materials for the other metals industries to identify available data. EPA transferred data for unit operations that met the following two criteria:

- The unit operation was performed at MP&M Phase I sites; and
- EPA had not collected data for the unit operation from MP&M sites.

EPA keypunched the data into a database, which was combined with the data collected from the MP&M sampling program.

For the MP&M technology effectiveness assessment effort, EPA reviewed data collected to characterize treatment systems sampled for the development of effluent guidelines for

other metals industries. For several previous effluent guidelines, EPA used treatment data from metals industries to develop the Combined Metals Data Base (CMDB), which served as the basis for developing limits for these industries. EPA also developed a separate database used as the basis for limits for the Metal Finishing category. EPA used the CMDB and Metal Finishing data as a guide in identifying well-designed and well-operated MP&M treatment systems. EPA did not use these data in developing the MP&M technology effectiveness concentrations, since sufficient data were collected from MP&M Phase I sites to develop technology effectiveness concentrations.

EPA's Office of Research and Development (ORD) developed the Risk Reduction Engineering Laboratory (RREL) treatability database to provide data on the removal and destruction of chemicals in various types of media, including water, soil, debris, sludge, and sediment. This database contains treatability data from publicly owned treatment works (POTWs) for various pollutants. This database includes physical and chemical data for each pollutant, the types of treatment used to treat the specific pollutants, the type of waste water treated, the size of the POTW, and the treatment concentrations achieved. EPA used this database to assess removal by POTWs of MP&M pollutants of concern.

In September, 1982, EPA published the *Fate of Priority Pollutants in Publicly Owned Treatment Works* (EPA 440/1–82/303), referred to as the 50 POTW Study. The purpose of this study was to generate, compile, and report data on the occurrence and fate of the 129 priority pollutants in 50 POTWs. The report presents all of the data collected, the results of preliminary evaluations of these data, and the results of calculations to determine:

- The quantity of priority pollutants in the influent to POTWs;
- The quantity of priority pollutants discharged from the POTWs;
- The quantity of priority pollutants in the effluent from intermediate process streams; and
- The quantity of priority pollutants in the POTW sludge streams.

EPA used the data from this study to assess removal by POTWs of MP&M pollutants of concern.

In February, 1986, EPA issued *The Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works* (EPA 530-SW-86-004), referred to as the Domestic Sewage Study (DSS). This report, which was based in part on the 50 POTW Study, revealed a significant number of sites discharging pollutants to POTWs which are a threat to the treatment capability of the POTW. These pollutants were not regulated by national effluent regulations. Some of the major areas identified were in the metals industries areas, particularly an area called ''equipment manufacturing and assembly.'' This category included sites which manufacture such products as office machines, household appliances, scientific equipment, and industrial machine tools and equipment. The DSS estimated that the ''equipment manufacturing and assembly'' category discharges 7,715 metric tons per year of priority hazardous organic pollutants which are presently unregulated. Data on priority hazardous metals discharges were unavailable for this category. Further review of the DSS revealed other categories which were related to metals industries, namely the motor vehicle category, which includes servicing of new and used cars and engine and parts rebuilding; and the transportation services category, which includes railroad operations, truck service and repair, and aircraft servicing and repair. EPA used the information in the DSS in development of the Preliminary Data Summary (PDS) for the MP&M category.

The Toxics Release Inventory (TRI) database contains specific toxic chemical release and transfer information from manufacturing facilities throughout the United States. This database was established under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), which Congress passed to promote planning for chemical emergencies and to provide information to the public about the presence and release of toxic and hazardous chemicals. Each year, manufacturing facilities meeting certain activity thresholds must report the estimated releases and transfers of listed toxic chemicals to EPA and to the state or tribal entity in whose jurisdiction the facility is located. The TRI list includes more than 300 chemicals in 20 chemical categories.

EPA considered use of the TRI database for development of the MP&M effluent guidelines. However, EPA did not use TRI data on waste water discharges from MP&M sites because sufficient data were not available for effluent guidelines development. For example, in development of the MP&M effluent guidelines, production data were used that could be linked directly to pollutant loadings. This information was used to normalize pollutant loadings to production. The linked production and pollutant loadings data are not available in the TRI database. EPA also did not use the data on waste water discharges because many MP&M Phase I sites do not meet the reporting thresholds for the TRI database.

*B. Survey Questionnaires*

EPA surveyed the metal products and machinery industry through two survey instruments pursuant to Section 308 of the Act. The first survey was titled ''1989 Machinery Manufacturing and Rebuilding Mini Data Collection Portfolio'' (OMB No. 2040-0148) or MDCP. The MDCP was sent to a random sample of 8,342 MP&M facilities, stratified within sector by Standard Industrial Classification (SIC) code. Facilities were classified by SIC code strata based on Dun & Bradstreet data. The sample size determination for each strata was based on the use of a coefficient of variation (CV) minimization procedure. The basic goal of the CV procedure was to minimize the number of facilities needed for the survey, subject to the condition that the separate strata variances would not be too large. The CV minimization procedure is described in the ''Data Base Summary Report for the Metal Products and Machinery Mini Data Collection Portfolio.'' A name and address list of sites was purchased from Dun & Bradstreet. This list included more than twice the number of sites specified by the CV procedure (for a total of approximately 22,110 sites). Within each SIC code, Dun & Bradstreet randomly selected the requested number of sites from the Dun & Bradstreet data base.

EPA reviewed the Sites listed for each SIC code and deleted sites from the mailing list for the following three reasons: (1) Sites had SIC codes which were inconsistent with company names, (2) sites were corporate headquarters, or (3) sites had insufficient mailing addresses. After this review, EPA randomly selected sites to receive the MDCP.

The purpose of the MDCP was to characterize the industry, help in the selection of sites to receive a more detailed questionnaire, and to estimate the number of MP&M sites in the country. To characterize sites engaged in MP&M activities, the MDCP requested the following site-specific information:

- Name and address;
- Contact person;
- Parent company;
- Industrial sectors in which the site manufactures, rebuilds or maintains machines or metal components;
- SIC codes corresponding to products at the site;

- Number of employees;
- Annual revenues;
- Unit operations performed at the site;
- Process water use and waste water discharge for each unit operation performed at the site; and
- Base metals on which each unit operation is preformed.

EPA sent the MDCP to randomly selected MP&M Phase I sites engaged in manufacturing, rebuilding, or maintenance operations. The MDCP was also sent to selected MP&M Phase II manufacturing sites to characterize the interfaces between MP&M phases. The MDCP was not sent to sites with SIC codes indicating that the sites were engaged in MP&M Phase II rebuilding or maintenance operations.

The MDCP survey estimated that approximately 80,000 sites were engaged in Phase I sector activities. The majority of these sites were engaged only in Phase I sectors, since the majority of the MDCPs were sent to sites within Phase I sectors. The remainder of the sites were phase overlapped sites (engaged in industrial sectors in both Phase I and II) or Phase II only sites. Some of the smaller sites could have been misclassified as to their industrial sector based on the results of the MDCP, because the sites did not know their SIC code. Uncertainty as to SIC code is one of the reasons that EPA is not proposing to define the MP&M Phase I applicability in terms of SIC codes. Less than half of all engaged sites were estimated to be water users, and less than one-fourth were estimated to be water dischargers. Sites with operations in both Phase I and II (''overlap sites'') were more likely to use water than sites engaged only in Phase I activities (50% vs. 35%). This may be partly because overlap sites were on average larger with respect to number of employees and revenues than sites engaged in Phase I activities only. In general, larger sites were more likely to use water than smaller sites. Nonconfidential information from the MDCPs is included in the MP&M public record.

The second questionnaire, entitled ''1989 Machinery Manufacturing and Rebuilding Data Collection Portfolio (DCP)'' (OMB No. 2040–0148), was designed to collect detailed technical and financial information from water-using MP&M sites. Eight hundred ninety-six questionnaires were mailed in January 1991. Because a number of questionnaires were returned undelivered, an additional 124 questionnaires were mailed in January and February 1991, for a total of 1,020. EPA assumed that the undelivered DCP questionnaires represented sites that had gone out of business since the MDCP survey.

The DCP was divided into six parts:

- General information;
- Process information;
- Water supply;
- Waste water treatment and discharge;
- Process and hazardous wastes; and
- Financial and economic information.

The general information was requested to identify the site, to characterize the site by certain parameters (including number of employees, age, and location), and to confirm that the site was engaged in MP&M activities.

The process information requested included details on products, production levels, unit operations, activity, water use for unit operations, waste water discharge from unit operations, miscellaneous waste water sources, pollution prevention or water conservation practices, and air pollution control for unit operations.

The water supply section requested the site to specify the source of water, average intake flow, average intake operating hours, and the percentage of water used for MP&M operations.

EPA requested detailed information on the waste water treatment systems used and the discharge volumes (including residuals), including a block diagram of the waste water treatment system; self-sampling monitoring data; and capital and operating cost data (including treatment chemical usage).

The fifth section of the questionnaire requested detailed information on the types, amounts and composition of solid/hazardous wastes generated during production to evaluate the types and amounts of pollutants currently discharged, the amount of pollutants that are contract-hauled off-site, and the cost of hauling pollutants.

The sixth section requested information on the site's finances and corporate structure.

EPA selected sites to receive the DCP based on the responses obtained by the MDCP and other factors. Three population groups formed the basis of the survey of this industry.

1. Water-discharging Phase I and overlap MDCP sites;

2. Water-using Phase I and overlap MDCP sites that do not discharge process water; and

3. Key water-discharging MP&M Phase I and overlap sites that did not receive the MDCP (discussed further below).

EPA sent DCP's to all 860 Phase I and overlap water-discharging MDCP sites to characterize the potential variations in unit operations performed and water use practices among sites in the MP&M industry.

In addition, a random sample of 50 MDCP recipients that use but do not discharge process water was selected by EPA to receive the DCP in order to provide information on potential zero-discharge unit operations. EPA selected these sites to obtain information on water-use practices from sites that use but do not discharge process water, and to determine if ''zero-discharge'' practices employed at those sites may be used at other MP&M sites. An additional 24 MDCP recipients that use but do not discharge process water were selected by EPA. These sites were selected to provide information on specific unit operations expected at each site.

Eighty-six sites that did not receive the MDCP were selected by EPA to receive the DCP. These sites represent key MP&M companies that were not selected as DCP recipients based on the MDCP responses. EPA's intent in selecting these sites was to characterize leading companies in the MP&M category. The key companies were identified from the Dun & Bradstreet company listings, the Thomas Register, and MP&M site visits. These key companies reported annual revenues of $50 million or more or were recognized by the EPA to be leading companies in their particular sector. Each company was contacted to identify sites within the company that were engaged in MP&M activities and used process water to perform MP&M unit operations. The one or two sites believed to perform the most water-using MP&M unit operations from each key company were selected to receive the DCP. Non-confidential information contained in the DCPs are included in the public record.

### *C. Waste Water Sampling and Site Visits*

EPA visited 98 MP&M sites between 1986 and 1993 to collect information about MP&M unit operations, water use practices, pollution prevention and treatment technologies and waste disposal methods, and to evaluate sites for potential inclusion in the MP&M sampling program. In general, EPA selected sites for visits to encompass the range of sectors, unit operations, in-process source reduction and recycling practices, and treatment operations within the MP&M industry. EPA's site visits encompassed sites in both Phase I and II but focused primarily on Phase I sites. EPA also performed site visits at military installations, government owned and operated sites, and government owned contractor operated sites. In addition, EPA visited four job shop electroplating sites that performed

in-process source reduction and recycling technologies.

EPA selected sites from information contained in the MDCPs and DCPs, and also through contacts with EPA regional personnel, state environmental agency personnel, local pretreatment coordinators, and pollution prevention and technical assistance providers. These personnel helped EPA identify MP&M sites believed to be operating in-process source reduction and recycling technologies or end-of-pipe waste water treatment technologies.

To ensure that EPA selected sites that encompassed the range of sectors and unit operations within the MP&M industry, the Agency used the following general criteria as part of the basis for selecting sites for visits:

1. The site performed MP&M unit operations in an industrial sector in which sites had not previously been visited.
2. The site performed MP&M unit operations that had not been observed during previous site visits.
3. The site had water use practices that were believed to be representative of the site's industrial sector.
4. The site operated in-process source reduction, recycling, or end-of-pipe treatment technologies considered in the development of the MP&M technology options.

EPA visited sites of various sizes, with waste water flows ranging from less than 200 gallons/day to more than 1,000,000 gallons/day.

EPA collected detailed information from the sites visited such as unit operations performed and the types of metals processed through these operations, purpose of the unit operation and any waste water associated with it, and in-process source reduction and water conservation practices as well as whether these source reduction practices caused any cross-media impacts. Also collected during the site visits were information on the end-of-pipe treatment technologies and, if the facility was a candidate for sampling, the logistics of collecting samples. All nonconfidential information collected during site visits are included in the public record.

The Agency conducted waste water sampling at 27 sites between 1986 and 1993. EPA sampled at least two sites in each of the seven MP&M Phase I sectors, as well as several sites in Phase II sectors. EPA also sampled waste water at one job shop electroplating site to characterize surface treatment operations and end-of-pipe treatment systems that were comparable to MP&M unit operation and treatment systems. EPA selected sites for sampling for reasons such as the following:

- The site performed MP&M unit operations that had not been sampled at other sites;
- The site processed metals through MP&M unit operations for which the metal/unit operation combination had not been sampled at other sites;
- The site performed in-process source reduction recycling, or end-of-pipe treatment technologies that were considered for technology option development; or
- The site performed unit operations in a sector in which samples had not previously been collected.

EPA sampled sites with waste water flows ranging from less than 200 gallons/day to greater than 600,000 gallons/day.

During sampling, EPA collected samples of both raw (untreated) waste water and treated waste water, frequently across individual unit treatment operations, to characterize the performance of the entire treatment system. In addition, EPA gathered flow data corresponding to each sample, and design and operating parameters for source reduction, recycling and treatment technologies. EPA also collected samples of unit operations to determine pollutant loadings at the unit operation level as well as flow and production data corresponding to each sample. All data collected during the sampling episodes are included in the sampling reports which are in the rulemaking record.

*D. EPA Bench Scale Treatability Studies (Terpene Study)*

Terpenes are a broad classification of 10, 15, 20 or 30 carbon-atom compounds and derivatives produced from citrus fruits, wood turpentine, and wood pulp byproducts. Increasingly, these compounds are being used in industrial cleaning formulations designed for printed circuit board defluxing and metal degreasing operations. The popularity of these terpene-based cleaners is based primarily on their ability to replace the usage of suspected ozone-depleting chemicals such as 1,1,1-trichloroethane and 1,1,2-trichloro-1,2,2-trifluoroethane (e.g., CFC-113).

In general, the use of terpene-based cleaners in these applications is considered environmentally preferable to chlorinated solvents. However, studies conducted by EPA's Office of Toxic Substances (OTS) indicate that substitution of chlorinated solvents with terpene-based cleaners will result in increased discharges of these chemicals to waste water from these industrial operations. The OTS studies also identified potential aquatic toxicity concerns associated with several specific terpene compounds. These concerns, combined with the fact that most industrial facilities engaged in printed circuit board defluxing and metal cleaning operations discharge their waste water into public sewers, created the need to better understand the fate of terpene compounds in a typical municipal waste water treatment system.

EPA's Risk Reduction Engineering Laboratory (RREL) conducted a study to quantify the fate of specific terpene compounds in the activated sludge waste water treatment process. The study was conducted using pilot-scale equipment at EPA's Test and Evaluation (T&E) Facility in Cincinnati, Ohio. The specific goal of the research was to establish the percentage of the terpene mass entering a typical activated sludge process that is (1) biodegraded, (2) partitioned to waste sludge, (3) volatilized to air, and/or (4) passed through the treatment process unchanged.

This study on the fate of specific terpene compounds in the activated sludge waste water treatment process produced the following conclusions:

- The primary fate of d-limonene and terpinolene in a typical municipal waste water treatment process (primary clarifier/activated sludge) is biodegradation followed by sorption onto primary clarifier solids and volatilization.
- The activated sludge process typically produces d-limonene and terpinolene effluent concentrations below 10 μg/L, corresponding to influent concentrations as high as 10,000 μg/L.

EPA's terpene study was conducted to determine the treatability of terpene in municipal waste water treatment systems. The results of the study indicate that the primary removal mechanism for the terpenes studied in the activated sludge process is biodegradation. EPA studied terpenes because they represent one broad class of compounds in use as replacements for ozone depleting chlorinated solvents. A wide variety of non-terpene compounds are also being used as solvent substitutes, but these compounds were not examined in this study.

**VI. Industry Subcategorization**

EPA is not proposing to subcategorize the MP&M Phase I category. EPA considered a number of potential subcategorization schemes as described below, but concluded that no basis exists for creating subcategories and the only way to establish a categorical regulation that could be implemented to ensure the most effective treatment and removal of waste water pollutants was

to not subcategorize this industrial category.

The subcategorization factors considered were based on subcategorization factors required by the Clean Water Act, as well as factors that have been used as a basis for subcategorization in other metals industry regulations. These factors include:

- unit operation;
- activity;
- raw materials;
- products;
- size of site;
- location;
- age;
- economic impacts;
- total energy requirements;
- air pollution control methods; and
- solid waste generation and disposal.

EPA considered subcategorizing the MP&M Phase I category by unit operation. EPA identified 47 unit operations, subsets of which are typically performed at MP&M sites. These unit operations can use differing amounts of water, generate different pollutant loadings, and can be performed in different combinations; however, the resulting waste waters exhibit general characteristics that allow the waste waters to be treated by the technologies on which this proposed rule is based (See Section IX.). Subcategorization by unit operation is technically feasible, but would result in approximately 47 subcategories with facilities operating under numerous subcategories. This would result in a very complex and unmanageable regulatory structure. The waste water characteristics for a given unit operation are expected to be similar across the other subcategorization factors listed above. As a result, EPA is not proposing to subcategorize by unit operation.

EPA also considered subcategorizing this industry by activity; i.e., manufacturing, rebuilding, and maintenance. Manufacturing is defined as the series of unit operations necessary to produce metal products, generally performed in a production environment. Rebuilding is defined as the series of unit operations necessary to disassemble used metal products into components, replace one or more components or subassemblies or restore them to original function, and reassemble the metal product. Rebuilding is generally performed in a production environment. Maintenance is defined as the series of unit operations, on original or replacement components, required to keep metal products in operating condition. Maintenance is generally performed in a non-production environment.

Based on the results of the DCP survey, the estimated percentages of water discharging Phase I sites performing each activity are listed below:

| | *Percent* |
|---|---|
| Manufacturing only | 71 |
| Rebuilding only | 1 |
| Maintenance only | 8 |
| Manufacturing and rebuilding | 13 |
| Manufacturing and maintenance | 2 |
| Rebuilding and maintenance | 2 |
| Manufacturing, rebuilding & maintenance | 3 |

With the exception of the initial cleaning steps for rebuilding and maintenance (discussed below), waste water characteristics do not vary across activity. Results of analyses of the DCP database indicate that the production-normalized flow (volume of waste water discharged per unit of production) for each unit operation does not depend on the activity. Additionally, for sites performing multiple activities, the same unit operations are often used for multiple activities (e.g., a machining process may be used to both manufacture and rebuild parts). Information collected during site visits at MP&M Phase I sites supports these conclusions.

The initial cleaning steps associated with rebuilding and maintenance may have unique waste water characteristics because of the presence of oil, grease, and grime not present in cleaning during manufacturing. These pollutants are present in waste waters generated by other operations at manufacturing, rebuilding, and maintenance sites (e.g., machining and grinding), and a technology used to remove these pollutants (oil-water separation) is included in the technology options considered for MP&M Phase I. Based on analytical data collected at rebuilding sites, the waste waters from initial cleaning require additional preliminary treatment capacity for oil-water separation, but do not impact the overall treatability of waste water from rebuilding sites. The impact of the oil and grime in the initial cleaning steps was accounted for in the development of compliance cost estimates and pollutant loading estimates. Because the initial cleaning steps do not impact waste water treatability, sites performing these cleaning steps can achieve the same effluent concentrations as sites that don't perform these steps.

Subcategorization by raw material may be appropriate when sites process similar types of raw materials, and these raw materials dictate a site's overall waste water characteristics. Raw materials at MP&M sites consist of base metals processed (e.g., bar stock, sheet stock, ingots, formed parts) and applied materials (e.g., paint, corrosion preventive coatings, metal applied during electroplating, electroless plating, and metal spraying).

Data from the DCP database and site visits indicate that the waste water discharge rates from unit operations are not dependent on the base metal processed or material applied. The base metal or material applied affects the site's waste water characteristics; however, EPA accounted for this in calculating technology effectiveness concentrations and pollutant loading estimates.

Based on the DCP results it is estimated that more than half of the MP&M Phase I sites process more than one type of base metal or metal applied. The estimated percentages of sites by the number of metal types processed are as follows:

| | *Percent* |
|---|---|
| Zero metal types | <1 |
| One metal type | 43 |
| Two metal types | 32 |
| Three metal types | 15 |
| Four metal types | 4 |
| Five or more metal types | 6 |

The metal types processed at MP&M sites are diverse, and sites periodically change metal types. At sites processing multiple metal types, individual unit operations frequently process more than one metal type (e.g., a machining operation can process nickel, aluminum, and iron parts). Additionally, not all metal types processed at a site are processed through all unit operations. For example, a site may process aluminum and iron base metals. Anodizing is performed on the aluminum, and electroplating on the iron. Both metals share the same alkaline and acid treatments. Subcategorizing by base metal type would place the anodizing operation in the aluminum subcategory, the electroplating operation in the iron subcategory, and the alkaline and acid treatments in both subcategories. While this subcategorization scheme is possible, the Agency did not select this approach because the waste water discharge rates from unit operations are not dependent on metal type. Also, EPA considered the effect of metal type on waste water characteristics in calculating technology effectiveness concentrations and pollutant loadings.

EPA considered subcategorizing the MP&M category by industrial sector (e.g., aerospace, aircraft, electronic

equipment, hardware, mobile industrial equipment, ordnance, and stationary industrial equipment). However, waste water characteristics, unit operations, and raw materials used to produce products within a given sector are not always the same from site to site, and they are not always different from sector to sector. Within each sector, sites can perform a variety of unit operations on a variety of raw materials. For example, a site in the aerospace sector may primarily machine aluminum missile components and not perform any surface treatment other than alkaline cleaning. Another site in that sector may electroplate iron parts for missiles and perform little or no machining. Waste water characteristics from these sites may differ because of the different unit operations performed and different raw materials used.

Based on the analytical data collected for this rule, EPA has found no statistically significant difference in industrial waste water discharge among industrial sectors for cadmium, chromium, copper, cyanide, lead, nickel, oil & grease, silver, TSS and zinc. The analytical data are available in the public record for this rulemaking.

Most MP&M unit operations are not unique to a particular sector and are performed across all sectors. Major waste water-generating unit operations (e.g., alkaline treatment, acid treatment, machining, electroplating) are performed in all sectors. The unit operations that are rarely performed (e.g., abrasive jet machining) are not performed in all sectors, but are also not limited to a single sector. Based on the information obtained from engineering site visits and sampling episodes, these unit operations do not affect the overall treatability of waste waters generated at sites performing these unit operations. Therefore, the raw waste waters are expected to have similar treatability across the MP&M Phase I sectors.

EPA considered subcategorization of the MP&M Phase I category on the basis of site size. Three parameters were identified as relative measures of MP&M site size: number of employees, production, and waste water discharge flow rate.

Raw materials, unit operations, and waste water characteristics are independent of the number of site employees. A review of the DCP database shows that production-normalized flows do not depend on the number of employees. A correlation between the number of employees and waste water generation can be difficult to develop due to variations in staff. Fluctuations can occur for many reasons, including shift differences, clerical and administrative support, maintenance workers, efficiency of site operations, degree of automation, and market fluctuations. For these reasons, EPA did not subcategorize by number of employees.

EPA did not subcategorize by site production, since the production through an MP&M Phase I site does not reflect the production through process waste water-generating unit operations. For example, two sites may each process 100 tons of steel annually. One site may process all of the steel through an electroplating line, while the other may perform dry assembly for 95 tons, and process five tons through a machining operation. If production through the entire site were used for subcategorization, these two sites would be placed in the same subcategory while their waste water characteristics would be different.

EPA did not subcategorize by site waste water discharge flow rate because the waste water characteristics for a site are independent of the overall waste water discharge flow rate from a site. Waste water characteristics are primarily a function of the raw materials and unit operations at a site, and not the site's waste water discharge flow. For example, a site performing one machining operation on steel and discharging 100 gallons per year (gpy) of waste water would have similar waste water characteristics as a site with 1,000 machining operations on steel discharging 100,000 gpy, provided the sites have similar water use practices. A review of the DCP database shows that water use practices, as measured by production-normalized flow rates, do not depend on the overall waste water discharge flow rate from a site. The raw materials and unit operations also do not vary by site discharge flow rate.

For sites discharging to publicly owned treatment works (POTWs), EPA divided the MP&M Phase I population by waste water discharge rate to facilitate implementation (see Section III.E).

EPA also considered subcategorizing MP&M facilities on the basis of economic characteristics of these facilities. If a group of facilities with common economic characteristics, such as revenue size, was in a much better or worse financial condition than others, then it might be appropriate to subcategorize based on economics. However, analyses of the financial conditions of facilities showed no significant pattern of variation across possible subcategories.

While any group of facilities is likely to differ from any other group of facilities, the relevant issue is whether these differences were random differences due to the normal variation characteristic of all MP&M businesses, or whether these differences were systematically and predictably related to some shared economic characteristic. Linear regression and logistic regression were used to test for systematic variations in the financial condition and performance of subcategories of facilities grouped according to the following kinds of economic characteristics:

- Primary Line of Business: Facilities were assigned to MP&M sectors according to the sector in which they earned most of their revenues. The financial condition and performance of facilities across sectors did not vary in a statistically significant way.
- Customer Type: Responding facilities indicated the percentage of revenues they earned from three customer types, government, domestic non-government and foreign customers. When facilities were grouped according to their dependence on each of these customer types, statistical analyses found no significant differences in the financial condition or performance of the various groups.
- MP&M Activity: Responding facilities indicated the percentage of revenues they earned from each of three categories of activities (manufacturing, repairing and rebuilding). Facility financial performance and condition did not vary systematically with variations in dependence on the three categories of activities.
- Revenue Size: Facilities subcategorized by revenue size did not differ in financial condition or performance in a statistically significant way.

Appendix D of the Industry Profile of the Metal Products and Machinery Industry Phase I documents the methodology and findings in detail. This document is in the MP&M public record. Based on these analyses, EPA found no reasonable economic basis for subcategorizing MP&M facilities.

EPA is directed by the Clean Water Act to consider geographic location as a potential factor in subcategorizing an industrial category. The MP&M sites are generally located all over the country, however, almost two-thirds are located east of the Mississippi, with pockets of sites in Texas and California. EPA generally found that the sites located in California had installed more water conservation equipment and were generally more sensitive to water consumption concerns than the sites located in the rest of the country. EPA expects this is due to the nearly decade long drought suffered by California

during the 1980's, as well as local regulations that are often stricter than other areas of the country. However, EPA did not find this limited water conservation a sufficient basis for subcategorization.

Other factors that EPA is directed to consider by the Clean Water Act include total energy requirements, non-water quality considerations, and age of facilities. Energy requirements vary widely throughout the MP&M Phase I category; however, EPA did not subcategorize by this factor because the energy requirements are not directly related to waste water characteristics. Energy costs resulting from this regulation were accounted for in the economic impact assessment for this regulation. Non-water quality considerations include solid waste and air pollution generation. EPA did not subcategorize by these factors because solid waste and air pollution characteristics and generation rates depend on the raw materials processed and unit operations performed at MP&M sites, and are not directly related to waste water characteristics. The non-water quality impacts and costs of solid waste and air pollution control associated with this regulation were considered in the economic analysis and regulatory impact analysis for this regulation.

EPA did not subcategorize by age of facility because site age does not account for differences in raw waste water characteristics. The percentage of sites by the decade in which they were built is listed below. This information is based on the DCP respondents that reported the date in which their facility was built:

| | *Percent* |
|---|---|
| Before 1920 | 4 |
| 1920 through 1929 | 3 |
| 1930 through 1939 | 2 |
| 1940 through 1949 | 8 |
| 1950 through 1959 | 8 |
| 1960 through 1969 | 13 |
| 1970 through 1979 | 40 |
| 1980 through 1989 | 21 |
| 1990* | 1 |

* The DCP was mailed on January 2, 1991.

The majority of the sites have been built since 1960. The DCP respondents reported a wide range of ages; however, based on information in the DCPs and from site visits, MP&M Phase I sites continually modernize to remain competitive. For example, several sites visited that were built before 1960 had recently installed either new electroplating lines with in-process pollution control technologies or in-process pollution control technologies on existing electroplating lines. Another site which was initially built before 1940 had recently installed a new heat treating process. This type of modernization is typical in the MP&M Phase I industry. Modernization of production processes and pollution control equipment produces similar wastes among all sites of various ages that are performing similar types of operations; therefore, site age does not account for differences in the raw waste water characteristics and was not selected as a basis for subcategorization.

## VII. Water Use and Waste Water Characteristics

### *A. Waste Water Sources and Characteristics*

The unit operations included in the MP&M category can be classified by water use practices into those that typically use process water and discharge process waste water, unit operations that typically either do not use process water or use process water but do not discharge waste water, and miscellaneous operations reported in DCP responses by fewer than five MP&M sites.

Process waste water includes any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw materials, intermediate products, finished products, by-products, or waste products. Process waste water includes waste water from wet air pollution control devices. Non-contact cooling water is not considered a process waste water. Non-aqueous wastes used as processing liquids, such as spent solvents or quench oil, are also not considered process waste waters.

As discussed below, waste waters from the operations that use process water have different characteristics depending on the unit operation from which they are derived. First, oil-bearing waste waters are typically metal shaping coolants and lubricants, surface preparation solutions used to remove oil and dirt from components, and associated rinses. Some examples of oil-bearing waste waters are: machining and grinding coolants and lubricants; pressure and impact deformation lubricants; dye penetrant and magnetic flux testing; and alkaline cleaning solutions and rinses used to remove oil and dirt. These waste waters typically require preliminary treatment to remove oil. Chemical emulsion breaking followed by oil skimming is typically used for this treatment. Membrane separation technologies are also used for oil removal.

Second, hexavalent chromium-bearing waste water typically consists of concentrated surface preparation or metal deposition solutions, sealants, and associated rinses. Some examples of hexavalent chromium-bearing waste waters are: chromic acid treatment solutions and rinses; chromate conversion coating solutions and rinses; and chromium electroplating solutions and rinses. These waste waters typically require preliminary treatment to reduce the hexavalent chromium to trivalent chromium for subsequent chemical precipitation and settling. Sodium metabisulfite is typically used for this reduction.

Third, process waste waters that contain cyanide are typically generated by surface preparation or metal deposition solutions and their associated rinses. Two examples of cyanide-bearing waste waters are: cyanide-bearing alkaline treatment solutions and rinses (typically used as a surface treatment step prior to electroplating with cyanide solutions) and cyanide-bearing electroplating solutions and rinses. These waste waters typically require preliminary treatment to destroy cyanide and facilitate subsequent chemical precipitation and settling. Sodium hypochlorite is typically used for this treatment.

Fourth, process waste waters that contain complexed metals are typically concentrated surface preparation or metal deposition solutions and their associated rinses. Complexed metal-bearing waste waters are usually generated at MP&M sites by electroless plating operations and their rinses. These waste waters require preliminary treatment to break the complexes for subsequent chemical precipitation and settling.

Finally, virtually all of the MP&M process waste waters contain some metallic pollutants. The most concentrated metal bearing waste waters include metal shaping solutions, surface preparation solutions, metal deposition solutions, and surface finishing solutions. Chemical precipitation (usually with either lime or sodium hydroxide) and settling is typically used for metals removal. Coagulants and flocculants may be added to assist chemical precipitation and settling.

### *B. Pollution Prevention, Recycle, Reuse and Water Conservation Practices*

The data gathered to support this rule indicate that a number of pollution prevention and water conservation practices exist in the MP&M industries. Some of these pollution prevention, recycling, and water conservation practices were determined to be broadly applicable to the MP&M category, and

these were included in the technology options (see Section III.A.).

A large number of additional pollution prevention practices were site specific and could not be used as the basis for a national standard. However, EPA considers it important to make this site specific pollution prevention information available for possible use by MP&M sites. Therefore, the Technical Development Document contains a bibliography of the pollution prevention practices identified during the development of this rule. EPA's proposed flow guidance also discusses the applicability of the more prevalent pollution practices identified in this category.

## VIII. Approach for Estimating Costs and Pollution Reductions Achieved by Waste Water Control Technology

EPA estimated industry-wide compliance costs and pollutant loadings using model sites based on DCP respondents and a computerized design and cost model for the MP&M technology options. Industry-wide costs and pollutant loadings were estimated for three technology options based on technologies designed for 396 model sites. Statistically calculated weights were used to scale those results to the estimated 10,601 MP&M Phase I sites nationwide which are expected to incur costs under the regulation.

The 396 model sites were a subset of the 860 sites which indicated that they were water dischargers on their MDCP survey response. Six hundred seventy five of these sites returned the subsequent DCP and their responses were entered into the DCP database. Of these 675 sites in the DCP database, 396 were chosen to be model sites for the following reasons:

- The site generated revenue from a Phase I sector, as determined from the economic section of the DCP (for some sites, an economic sector was not identified; therefore, the sector identified in the technical section of the DCP was used); and
- The site supplied sufficient economic and technical data to estimate compliance costs and pollutant loadings of the MP&M technology options.

Each of the 396 sites selected was assessed to determine the unit operations, waste water characteristics and treatment technologies currently in place at the sites.

Based on the information provided by the sites in their DCP responses, follow-up letters, and phone calls, each waste water stream was classified by the type of unit operation (e.g., machining, electroplating, acid treatment, etc.) and base metal type (e.g., steel, aluminum, zinc, etc.). The following additional DCP data were used to characterize process waste water streams: waste water discharge flow rate, production rate, operating schedule, and discharge destination. Many of the 396 sites provided these data for all waste water streams generated on site. For sites that did not provide complete data, the missing data were either estimated based on technical considerations specific to the site, or were statistically imputed. The concentration of each pollutant in each waste water stream was modelled from field sampling of waste water discharges from the unit operation/metal type combinations at other MP&M sites. DCP responses were used to identify the following information about end-of-pipe technologies in place at MP&M sites: the types of treatment units in place; the unit operations discharging process waste water to each treatment unit; and the operating schedule of each treatment unit.

A computerized design and cost model was developed to estimate compliance costs and pollutant loadings for the MP&M technology options, taking into account each site's level of treatment in place. The model was programmed with technology-specific modules which calculated the costs for various combinations of technologies as required by the technology options and the model site waste water stream characteristics. Design and cost data were based on MP&M site data, literature data, and vendor data.

Technology-specific cost modules were developed for the in-process pollution prevention and water use reduction technologies and end-of-pipe treatment technologies discussed in Section IX below. The model provided the following types of information for each technology designed for a model site:

- Capital costs;
- Operating and maintenance costs;
- Electricity used and associated cost;
- Sludge generation and associated disposal costs;
- Waste oil generation and associated disposal costs;
- Water use reduction and associated cost credit;
- Metal reclaimed and associated cost credit;
- Chemical usage reduction and associated cost credit;
- Effluent flow rate; and
- Effluent pollutant concentrations.

If contract hauling of waste water for off-site treatment and disposal was less costly than on-site treatment, EPA estimated costs assuming the model site would contract haul the waste water. EPA made this assessment on a technology-specific basis.

After estimation of capital and operating and maintenance costs, the total capital investment (TCI), total annualized cost (TAC), and monitoring costs were calculated. Sites that reported being regulated by categorical limitations and standards were assumed to currently incur some monitoring cost.

## IX. Best Practicable Control Technology Currently Available

### *A. Need for BPT Regulation*

The MP&M Phase I regulation is estimated to potentially apply to 10,601 facilities nationwide. Although there are a number of metal processing categorical effluent guidelines that also apply to some operations performed at MP&M sites, these other effluent guidelines only affect approximately 2,000 MP&M Phase I sites. Thus, a large number of MP&M Phase I facilities do not have any effluent limitations guidelines. EPA estimates that 1,895 MP&M sites that are direct dischargers currently discharge substantial quantities of pollutants into the surface waters of the United States, including 18 million pounds per year of oil and grease, 2.6 million pounds per year of total suspended solids, 0.56 million pounds per year of priority pollutants, and 0.6 million pounds per year of nonconventional metal pollutants. EPA estimates that the proposed BPT limitations will reduce these quantities to 150,000 pounds per year of oil and grease, 360,000 pounds per year of total suspended solids, 40,000 pounds per year of priority metal pollutants, and 130,000 pounds per year of nonconventional metal pollutants.

### *B. BPT Technology Options and Selection*

EPA considered three regulatory options on which to base BPT limitations.

1. *Option 1: Lime and Settle Treatment.* Option 1 consists of preliminary treatment for specific pollutants and end-of-pipe treatment with chemical precipitation (usually accomplished by raising the pH with an alkaline chemical such as lime or caustic to produce insoluble metal hydroxides) followed by clarification. This treatment, which is also commonly referred to as lime and settle treatment, has been widely used throughout the metals industry and is well documented to be effective for removing metal pollutants. As with a number of previously promulgated regulations, EPA has established BPT on the basis

that all process waste waters, except solvent bearing waste waters, will be treated through lime and settle end-of-pipe treatment.

All of the regulatory options considered for the MP&M category are based on a commingled treatment of process waste waters through lime and settle with preliminary treatment when needed for specific waste streams. Preliminary treatment is performed to remove oil and grease through emulsion breaking and oil skimming; to destroy cyanide using sodium hypochlorite; to reduce hexavalent chromium to the trivalent form of chromium which can subsequently be precipitated as chromium hydroxide; or to break metal complexes by chemical reduction. EPA has also included the contract hauling of any waste waters associated with organic solvent degreasing as part of the Option 1 technology.

Through sampling episodes and site visits, EPA has determined that some waste waters, usually alkaline cleaning waste waters and water-based metal working fluids (e.g., machining and grinding coolants, deformation lubricants), may contain significant amounts of oil and grease. These waste waters require preliminary treatment to remove oil and grease and organic pollutants. Chemical emulsion breaking followed by either skimming or coalescing is an effective technology for removing these pollutants.

EPA has identified MP&M waste waters that may contain significant amounts of cyanide, such as plating and cleaning waste waters. These waste waters require preliminary treatment to destroy the cyanide. This is typically performed using alkaline chlorination with sodium hypochlorite or chlorine gas. EPA has also identified hexavalent chromium-bearing waste waters, usually generated by anodizing, conversion coating, acid treatment, and electroplating operations and rinses. These waste waters require chemical reduction of the hexavalent chromium to trivalent chromium. Sodium metabisulfite or gaseous sulphur dioxide are typically used as reducing agents. Several surface treatment waste waters typically contain significant amounts of chelated metals. These chelated metals require chemical reduction to break down the chelated metals prior to lime and settle. Sodium borohydride, hydrazine, and sodium hydrosulfite can be used as reducing agents. These preliminary treatment technologies are more effective and less costly on segregated waste waters, prior to adding waste waters that do not contain the pollutants being treated with the preliminary treatment technologies. Thus, EPA includes these preliminary treatment steps whenever it refers to lime and settle treatment.

2. *Option 2: In-process Flow Control, Pollution Prevention, and Lime and Settle Treatment.* Option 2 builds on Option 1 by adding in-process pollution prevention, recycling, and water conservation methods which allow for recovery and reuse of materials. Techniques or technologies, such as centrifugation or skimming for metal working fluids, or ion exchange for electroplating rinses, can save money for companies by allowing materials to be used over a longer period before they need to be disposed. These techniques and technologies also can be used to recover metal or metal treatment solutions. Using these techniques along with water conservation also leads to the generation of less pollution and results in more effective treatment of the waste water that is generated. As has been demonstrated by numerous industrial treatment systems, the treatment of metal bearing waste waters is relatively independent of influent concentration. For example, the well-operated lime and settle treatment system can achieve the same effluent concentration with an influent stream of 1,000 gallons per minute (gpm) and 10 parts per million (ppm) as it can achieve with an influent stream which is 500 gpm and 20 ppm. In fact, within a broad range of influent concentrations, the more highly concentrated waste water influent, when treated down to the technology effectiveness concentrations of a lime and settle treatment system, results in better pollutant removals and less mass of pollutant in the discharge. In addition, the cost of a treatment system is largely dependent on the size, which in turn is largely dependent on flow. As a result, the lower the flow of water to the treatment system the less costly the system. Option 2 in-process technologies include:

- Flow reduction using flow restrictors, conductivity meters, and/or timed rinses, for all flowing rinses, plus countercurrent cascade rinsing for all flowing rinses;
- Flow reduction using bath maintenance for all other process water-discharging operations;
- Centrifugation and 100 percent recycling of painting water curtains;
- Centrifugation and pasteurization to extend the life of water-soluble machining coolants reducing discharge volume by 80%; and
- In-process metals recovery using ion exchange followed by electrolytic recovery of the cation regenerant for selected electroplating rinses. This includes first-stage drag-out rinsing with electrolytic metal recovery.

The flow reduction practices included in Option 2 are widely used by MP&M sites and are also included as part of the regulatory basis for a number of effluent guidelines regulations in the metals industry.

3. *Option 3: Advanced End-of-Pipe Treatment.* Option 3 includes all of the Option 2 technologies plus advanced end-of-pipe treatment. Advanced end-of-pipe treatment could be either reverse osmosis or ion exchange to remove suspended and dissolved solids yielding a treated waste water that can be partially recycled as process water. This technology is not widely used but has been demonstrated by some MP&M sites, particularly in instances where the water supply is contaminated and requires clean-up before it can be used. For the purposes of modelling the cost of compliance and resulting pollutant removals, Option 3 technology is expected to achieve a sufficiently clean treated waste water such that 90 percent of the treated waste water can be recycled back to the facility to be reused in the processing area.

*Selected Option.* EPA proposes to establish BPT effluent limitations guidelines based on Option 2 technologies. Lime and settle treatment used in conjunction with flow reduction and pollution prevention technologies represents the best technology widely practiced by MP&M sites. EPA proposes to require permit writers to convert the concentration-based effluent limitations guidelines into mass-based permit limitations based on MP&M flow guidance from the Technical Development Document. This document provides guidance to permit writers on identifying sites with pollution prevention and water conservation technologies equivalent to those included in Option 2 (e.g., electrodialysis, reverse osmosis). EPA recognizes that there are many different pollution prevention and water conservation technologies that may achieve the same performance as those included in Option 2; therefore, the Agency has provided permit writers guidance on assessing these technologies.

EPA recommends that, for sites with pollution prevention and water conservation technologies in place that are equivalent to those included as the basis for BPT, permit writers use historical flow as a basis for converting the concentration-based limitations to mass-based. For sites without these types of technologies in place, EPA recommends that permit writers do not use historical flow, but use other tools listed in the Technical Development Document (e.g., measuring production

through unit operations, measuring the concentration of total dissolved solids (TDS) in rinse waters) to convert the concentration-based limitations to mass-based. This approach encourages sites to implement good water use practices and investigate and install pollution prevention and water conservation technologies. By recommending use of historical flow only when sites have pollution prevention and water conservation technologies in place, EPA expects that permits based on BPT will reflect pollution prevention and water conservation technologies. If mass-based limitations have not been developed as required, the source shall achieve discharges not exceeding the concentration limitations listed in the regulation.

EPA did not select Option 1 as it does not reflect the average of the best technology performance in the industry. EPA did not select Option 3 technology as the basis for BPT because the costs do not justify the removals achieved.

*C. Calculation of BPT Limitations*

EPA visited 98 sites and sampled waste waters from 27 MP&M Phase I sites. In addition to sampling to characterize the process waste waters, EPA sampled 23 lime and settle treatment systems. EPA reviewed the treatment data gathered and identified data considered appropriate for calculating BPT limitations for the MP&M Phase I industry. EPA identified data from well-designed and well-operated treatment systems and focused on data for specific pollutants processed and treated on site. The data editing procedures used for this assessment consisted of four major steps:

1. Assessment of the performance of the entire treatment system;
2. Identification of process upsets during sampling that impacted the treatment effectiveness of the system;
3. Identification of pollutants not present in the raw waste water at sufficient concentrations to evaluate treatment effectiveness; and
4. Identification of treatment chemicals used in the treatment system.

The evaluation criteria used for each of these steps are described below. Data that failed one or more of the evaluation criteria were excluded from calculation of the BPT limitations.

1. *Assessment of Treatment System Performance.* EPA assessed the performance of the entire treatment system during sampling. Data for systems identified as not being well-designed or well-operated were excluded from use in calculating BPT limitations. EPA first identified the metals processed on site, as well as if the site performed unit operations likely to generate oil and grease and cyanide. EPA focused on these pollutants because the treatment trains used as a basis for the limitations are designed to treat and remove these pollutants. EPA then performed the following technical analyses of the treatment systems:

—Based on the pollutants processed or treated on site, EPA excluded data from systems that were not operated at the proper pH for removal of the pollutants.
—EPA excluded data from lime and settle systems that did not have solids removal indicative of effective treatment. In general, EPA identified as having poor solids removal systems that did not achieve 90% removal of total suspended solids (TSS) and had effluent TSS concentrations greater than 50 milligrams per liter. Site-specific exceptions were made to this rule depending on influent concentrations of TSS.
—EPA excluded data from lime and settle systems at which the concentration of most of the metals present in the influent stream did not decrease, indicating poor treatment.

2. *Identification of Process Upsets Occurring During Sampling.* EPA reviewed the sampling episode reports for each of the sampled sites, and identified any process upsets that resulted in poor treatment during one or more days of the sampling episode. EPA excluded the data affected by the process upsets.

3. *Identification of Pollutants Not Present in the Raw Waste water at Sufficient Concentrations to Evaluate Removal.* EPA excluded data for pollutants that were not detected in the treatment influent streams at a site, or were detected at concentrations less than 0.1 milligram per liter. EPA also excluded data for pollutants that were not processed on site. EPA reviewed the water use practices for the sampled sites and excluded data from sites that may have been diluting the raw waste water and reducing the concentration of pollutants processed on site. Because the MP&M Phase I effluent guidelines include water conservation practices and pollution prevention technologies, EPA reviewed the data to ensure that the BPT limitations were based on sites that had these practices and technologies in place.

4. *Identification of Waste water Treatment Chemicals.* EPA identified treatment chemicals used in each of the sampled treatment systems to determine if the removal of the metals used as treatment chemicals were consistent with removal of other metals on site, indicating a well-designed and well-operated system. If a metal was used as a treatment chemical, and the site treated the metal to a concentration consistent with other metals removed on site, the metal was included in calculation of the BPT limitations. If the metal was used as a treatment chemical and was not removed to a concentration consistent with other metals removed on site, the treatment chemical was excluded from calculation of the limitations. The data remaining after these data editing procedures were used to calculate the BPT limitations.

A detailed description of the statistical methodology used for the calculation of limitations is described in the Technical Development Document. A summary of the methodology follows.

The calculation of the BPT daily maximum limitations for pollutants was performed by the following steps. The arithmetic long-term mean concentration was calculated for each facility representing BPT treatment technology, and the median of the means was determined. A modified delta-lognormal distribution was fit to daily concentration data from each facility that had enough detected concentration values for parameter estimation. This is the same distributional model used by EPA in the final rulemakings for the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) and Pesticides Manufacturing categories and the proposed rulemaking for the Pulp and Paper category. Variability factors were then computed for each facility distribution, and the average variability factor was determined. Finally, the daily maximum limitation was calculated by multiplying the median long-term mean by the average variability factor. The monthly maximum limitation was calculated similarly except that the variability factor corresponding to the 95th percentile of the distribution of monthly averages was used instead of the 99th percentile of daily concentration measurements.

The daily variability factor is a statistical entity defined as the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, or mean, of the distribution. Similarly, the monthly variability factor is defined as the estimated 95th percentile of the distribution of four-day averages divided by the expected value of the monthly averages.

The modified delta-lognormal distribution models the data as a mixture of non-detect observations and measured values. This distribution was selected because the data for most analytes consisted of a mixture of measured values and non-detects. The modified delta-lognormal distribution assumes that all non-detects have a

value equal to the detection limit and that the detected values follow a lognormal distribution.

Table 2 presents the proposed daily and monthly limitations. In Table 2, the term ''T'', as in ''cyanide(T)'', shall mean total. The values calculated by the above procedures were rounded off to the next highest tenths place for metals, to the next highest hundredths place for cyanide, and to the next highest unit place for TSS and oil and grease.

EPA identified 24 metal types processed at MP&M Phase I sites. Because EPA did not have sufficient data to set limits for all of these metal types, EPA is regulating aluminum and iron as indicator metals for removal of non-regulated metals that may be processed at MP&M sites. Aluminum is most effectively removed in lime and settle systems at a pH between 7.5 and 8 standard units, while iron is most effectively removed at a pH of approximately 10.5 standard units. Most metals that may be present in MP&M waste waters are effectively removed in this pH range. Therefore, removal of aluminum and iron will indicate effective removal of other metal types. Although iron and aluminum can be used as water treatment chemicals, EPA believes that regulation of these pollutants will control discharges of non-regulated metals that are processed at MP&M sites.

EPA is proposing a pH range limit in order to assure that the pH of the waste water is within the neutral range.

EPA is also proposing to use oil and grease as an indicator for monitoring for organic pollutants that have the potential to be present in MP&M waste waters. EPA is using oil and grease as an indicator since most of the organic pollutants detected in MP&M waste waters during the MP&M sampling program are more soluble in oil than in water, and as such would partition to the oil layer. Thus, removal of oil and grease will result in significant removal of these pollutants. Data for oil-water separation systems collected during the MP&M sampling program show removals between 63 and 90 percent for organic pollutants across the oil-water separation systems. These data support the conclusion that the organic pollutants will partition to the oil layer. In addition, most of the organic pollutants detected in MP&M waste waters are insoluble in water, further supporting that these pollutants will partition to the oil layer.

EPA considered establishing limitations for Total Toxic Organics (TTO), which would reflect the sum of concentrations achieved for several specific organic pollutants identified during the MP&M sampling program. However, because of the diversity in the types of cleaners, coolants, paints, etc., used in the MP&M industry, as well as the current industry trends in identifying substitutes for organic solvent degreasing, EPA did not have sufficient analytical data to identify and regulate all organic pollutants in use at MP&M sites. Therefore, EPA rejected TTO as an approach to controlling organic pollutant discharges. EPA believes that use of oil and grease as an indicator will provide regulatory control of organic pollutants while allowing the flexibility to control organic pollutants that are used by MP&M sites but not identified during the MP&M sampling program.

EPA also considered establishing limitations for lead, since lead is known to have several adverse human health effects. Although lead was analyzed for in nearly all samples collected during the development of the MP&M Phase I rule, lead was rarely found at treatable concentrations in the influent to the treatment systems sampled. As discussed above, treatable concentration was defined as 0.1 milligram per liter in the raw waste water prior to treatment. The majority of lead data were non-detects or detects at very low concentrations. Since lead was rarely found at treatable concentrations in the raw waste water, prior to treatment, EPA decided not to propose a limit for lead. EPA is soliciting additional data and comments on the possibility of setting a limit for lead in the final rule (see Section XIX).

TABLE 2.—PROPOSED EFFLUENT CONCENTRATION LIMITATIONS

[Milligrams per liter (mg/l)]

| Pollutant or pollutant parameter | Maximum for any 1 day | Monthly average shall not exceed |
|---|---|---|
| Aluminum (T) ..... | 1.4 | 1.0 |
| Cadmium(T) ..... | 0.7 | 0.3 |
| Chromium(T) ..... | 0.3 | 0.2 |
| Copper(T) ..... | 1.3 | 0.6 |
| Iron(T) ..... | 2.4 | 1.3 |
| Nickel(T) ..... | 1.1 | 0.5 |
| Zinc(T) ..... | 0.8 | 0.4 |
| Cyanide(T) ..... | 0.03 | 0.02 |
| Oil & Grease ..... | 35 | 17 |
| TSS ..... | 73 | 36 |
| pH ..... | (1) | (1) |

1 Within 6.0 to 9.0.

*D. Applicability of BPT*

The Agency is proposing BPT limitations guidelines for the MP&M Phase I category to apply to all MP&M process waste waters that are generated by sites performing manufacturing, rebuilding or maintenance of metal parts, products, or machinery in one of the seven industrial sectors (i.e., aerospace, aircraft, electronic equipment, hardware, mobile industrial equipment, ordnance and stationary industrial equipment).

*E. BPT Pollutant Removals, Costs, and Economic Impacts*

EPA estimates that the proposed BPT limitations will remove annually an estimated 20 million pounds of conventional pollutants (TSS and oil and grease), 1 million pounds of metals and cyanide, and 67,000 pounds of organic pollutants. BPT is estimated to require a capital expenditure of $63 million (in 1994$), which will require an annualized cost of $18 million. In addition, as a result of this regulation, EPA estimates that 18 sites may close with an accompanying job loss of 158 full time employees (FTEs). EPA estimates that compliance activities may generate annual labor requirements which could more than offset these job losses. EPA believes that the effluent reduction benefits achieved by this proposed BPT justify the costs and that all statutory factors have been satisfied. (See further discussion of costs and benefits below).

**X. Best Conventional Pollutant Control Technology**

*A. July 9, 1986 BCT Methodology*

The BCT methodology, promulgated in 1986 (51 FR 24974), discusses the Agency's consideration of costs in establishing BCT effluent limitations guidelines. EPA evaluates the reasonableness of BCT candidate technologies (those that are technologically feasible) by applying a two-part cost test:

(1) The POTW test; and

(2) The industry cost-effectiveness test.

In the POTW test, EPA calculates the cost per pound of conventional pollutant removed by industrial dischargers in upgrading from BPT to a BCT candidate technology and then compares this cost to the cost per pound of conventional pollutant removed in upgrading POTWs from secondary treatment. The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars).

In the industry cost-effectiveness test, the ratio of the incremental BPT to BCT cost divided by the BPT cost for the industry must be less than 1.29 (i.e., the cost increase must be less than 29 percent).

*B. BCT Options Identified*

For today's proposed rule, EPA considered whether or not to establish BCT effluent limitation guidelines for MP&M sites that would attain incremental levels of effluent reduction beyond BPT for TSS. The only technology option identified to attain further TSS reduction is the addition of multimedia filtration to existing BPT systems.

EPA applied the BCT cost test to use of multimedia filtration technology as a means to reduce TSS loadings. The MP&M sites were split into three flow categories: low flow (generally less than 10,000 gallons per year (gpy)); medium flow (between 10,000 gpy and 1,000,000 gpy); and high flow (greater than 1,000,000 gpy). For each of these three flow categories, a representative site was chosen for which EPA had estimated the costs of installing the Option 2 technologies discussed under BPT (See Section IX.B. above). The Agency evaluated the costs of installing a polishing multimedia filter to remove an estimated additional 45 percent of the TSS discharged after lime and settle treatment. This estimated removal reflects the reduced TSS concentrations seen when filters are used in the MP&M industry. The cost per pound of the high flow case was $28/lb of TSS (in 1976 dollars), the cost per pound removed of the medium flow case was $131/lb and the cost of the low flow case was $813/lb of TSS (in 1976 dollars). All of these cases individually as well as combined exceed the $0.25/lb (in 1976 dollars) POTW cost test value. Because these costs exceed the POTW benchmark, the first part of the cost test fails; therefore, the second part of the test was unnecessary. It was therefore determined that multi-media filtration does not pass the cost test for BCT regulations development. In light of the above, BCT limitations for MP&M are proposed to be set equal to BPT limitations.

Therefore, EPA is proposing to establish BCT limitations on the basis of Option 2 technology, equivalent to BPT.

## XI. Best Available Technology Economically Achievable

*A. Need for BAT Regulation*

The need for BAT regulation is the same as the need for BPT regulation (see Section IX.A.).

*B. BAT Technology Options and Selection*

The factors considered in establishing the best available technology economically achievable (BAT) level of control include: the age of process equipment and facilities, the processes employed, process changes, the engineering aspects of applying various types of control techniques, the costs of applying the control technology, economic impacts imposed by the regulation, non-water quality environmental impacts such as energy requirements, air pollution and solid waste generation, and other such factors as the Administrator deems appropriate (sec

**tion 304(b)(2)(B) of the Act). In general, the BAT technology level represents the best existing economically achievable performance among plants with shared characteristics. In making the determination about economic achievability, the Agency takes into consideration factors such as plant closures and product line closures. Where existing waste water treatment performance is uniformly inadequate, BAT technology may be transferred from a different subcategory or industrial category. BAT may also include process changes or internal plant controls which are not common industry practice.**

EPA is today proposing BAT effluent limitations guidelines for all parameters listed in Table 2 except TSS and pH. Oil and grease is an indicator for 2-methylnaphthalene, 2-propanone, N-octadecane, and N-tetradecane.

The three regulatory options which EPA considered for BAT are identical to the three options discussed under BPT. Like BPT, EPA is proposing BAT on the basis of Option 2. This technology represents the best available technology economically achievable. Option 1 was rejected because it does not include the pollution prevention and water conservation technologies which are widely demonstrated at MP&M sites. Option 3 was rejected because the costs do not justify the removals achieved.

EPA did not include the application of filters, discussed under BCT, as a BAT option. Data collected during sampling at MP&M facilities demonstrated no additional removals of many metal pollutants resulting from the use of filters as compared to concentrations of the same metals after the lime and settle treatment included in Option 2. Thus, although filtration is demonstrated to be effective in achieving additional removals of suspended solids, and as such was considered for the basis of BCT, multimedia or sand filtration does not reflect the best available technology performance for priority and nonconventional pollutants.

*C. Calculation of BAT Limitations*

The calculation of the BAT limitations were performed by using the same methodology used for calculating BPT limitations (see Section IX.C.)

*D. Applicability of BAT*

The applicability of BAT is the same as that for BPT.

*E. BAT Pollutant Removals, Costs, and Economic Impacts*

The pollutant removals for BAT are the same as those for BPT except that BAT does not cover TSS (see Section IX.E.). The estimated cost of BAT is the same as BPT (see Section IX.E.). The economic impacts of BAT are the same as BPT (see Section IX.E.). EPA believes that the effluent reduction benefits achieved by this proposed BAT justify the costs and that all statutory factors have been satisfied. (See further discussion of costs and benefits below.)

## XII. Pretreatment Standards for Existing Sources

*A. Need for Pretreatment Standards*

Indirect dischargers in the MP&M Phase I category, like the direct dischargers, use raw materials that contain many priority pollutant and nonconventional metal pollutants. As in the case of direct dischargers, they may be expected to discharge many of these pollutants to POTWs at significant mass or concentration levels, or both. EPA estimates that indirect dischargers annually discharge approximately 12 million pounds of priority and nonconventional metals, and 2.4 million pounds of priority and nonconventional organic pollutants.

EPA determines which pollutants to regulate in PSES on the basis of whether or not they pass through, interfere with, or are incompatible with the operation of POTWs (including interference with sludge practices). The Agency evaluates pollutant pass through by comparing the pollutant percentage removed by well operated POTWs achieving secondary treatment with the percentage removed by BAT technology applied by direct dischargers. A pollutant is deemed to pass through POTWs when the average percentage removed nationwide by well-operated POTWs (those meeting secondary treatment requirement) is less than the percentage removed by directly discharging MP&M sites applying BAT for that pollutant.

To evaluate the need for PSES, EPA followed the procedures established by the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) regulation to determine the degree to which well-operated POTWs are capable of removing pollutants. Prior to promulgation of the OCPSF effluent guidelines, EPA conducted a study of

well-operated POTWs that use secondary (biological) treatment (the ''50–POTW Study''). The 50–POTW study determined the extent to which priority pollutants are removed by POTWs. The principal means by which the Agency evaluated pollutant pass-through was to compare the pollutant percentage removed by POTWs with the percentage removed to comply with BAT limitations.

Because some of the data collected for evaluating POTW removals included influent levels of priority pollutants that were close to the detection limit, the POTW data were edited to eliminate influent values less than 10 times the nominal method detection limit (MDL) and the corresponding effluent values, except in cases where none of the influent concentrations exceeded 10 times the MDL. In the latter case, where there were no influent data exceeding 10 times the MDL, the data were edited to eliminate influent values less than twice the MDL and the corresponding effluent values. These editing rules were used to allow for the possibility that low POTW removals simply reflected the low influent levels.

EPA then averaged the remaining influent data and also averaged the remaining effluent data for the POTWs. The percent removal achieved for each priority pollutant was determined from these averaged influent and effluent levels. This percent removal was then compared to the percent removal achieved by BAT treatment technology. Based on this analysis, EPA determined that four nonconventional organic pollutants, seven priority metal pollutants, five nonconventional metal pollutants, cyanide, and chemical oxygen demand pass through POTWs. POTW removals for ten of the nonconventional organic pollutants were calculated using a data base developed by EPA's Risk Reduction Engineering Laboratory (RREL) and data transferred from other pollutants based on physical similarities (e.g., straight-chained hydrocarbons, ketones, etc.).

### *B. PSES Technology Options and Selection*

Indirect discharging MP&M sites generate waste waters with similar pollutant characteristics to direct discharging facilities. Hence, the same treatment technologies discussed previously for BPT and BAT are considered applicable to PSES. However, as described below, the application of the technology options has resulted in the addition of a new option that applies to indirect dischargers.

EPA is today proposing PSES for all parameters listed in Table 2 except TSS and pH. EPA is proposing PSES for oil and grease as an indicator for monitoring for organic pollutants which have the potential to be present.

The Agency considered the following five options in developing PSES for MP&M Phase I.

1. *Option 1: Lime and Settle Treatment.* This option is equivalent to BPT Option 1.

2. *Option 1a: Tiered PSES for ''Low'' Flow and ''Large'' Flow Sites.* This option would establish a tiered PSES requirement depending on the annual discharge volume at a given MP&M site. For ''low'' flow sites, sites with a discharge volume of less than 1,000,000 gallons per year (gpy), PSES would require that sites comply with concentration standards based on Option 1. For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day. For ''large'' flow sites, sites with a discharge volume of 1,000,000 gpy or greater, PSES would require that mass-based standards be imposed based on Option 2 (i.e. the conversion of Option 1 concentration-based standards using an appropriate flow which reflects good pollution prevention and water conservation practices such as those included in BPT Option 2). The flow basis would be determined by the Control Authority using site-specific factors and flow guidance (see the Technical Development Document for a detailed presentation of flow guidance aimed at water conservation and good housekeeping practices). If mass-based limitations have not been developed as required, the source would have to achieve discharges not exceeding the concentration limitations listed in the regulation. The technology basis for PSES for large flow sites is the same as BPT Option 2.

3. *Option 2a: In-process Flow Reduction and Pollution Prevention and Lime and Settle Treatment for ''Large'' Flow sites.* This option would require that mass-based standards be imposed based on Option 2 for sites with a discharge volume of 1,000,000 gpy or greater. Sites with a discharge volume of less than 1,000,000 gpy would not be subject to PSES requirements. For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day.

In order to fully implement the mass-based permits, it is important for Control Authorities to issue permits in a timely manner. Dischargers are reminded of their responsibilities under the General Pretreatment Regulations (40 CFR 403) to provide, among other things, Baseline Monitoring Reports. The Agency expects Control Authorities to place a priority on issuing needed mass-based permits, and those permits should be issued within a year after the Baseline Monitoring Report deadline. Control Authorities that do not meet these permitting timelines may not be in compliance with their pretreatment programs under 40 CFR 123.45.

4. *Option 2: In-Process Flow Reduction & Pollution Prevention and Lime and Settle Treatment.* This option is equivalent to BPT Option 2.

5. *Option 3: Advanced End-of-Pipe Treatment.* This option is equivalent to BPT Option 3.

*Selected Option:* EPA is proposing Option 2a technologies as the basis for the proposed PSES for MP&M Phase I. Option 2a is economically achievable (see Section XIV) and greatly reduces pollutants discharged into the environment. Compared to Option 2, which would require that all MP&M indirect dischargers be controlled by mass standards, Option 2a achieves significant pollutant reduction without imposing undue administrative burden on the Control Authorities. Whereas Option 2 would require an estimated 8,706 facilities to have permits or similar control mechanisms written incorporating the proposed standards into a mass-based permit, Option 2a reduces this burden, requiring only an estimated 1,998 facilities to have mass-based permits, the rest of the facilities would not be subject to PSES requirements. EPA believes this approach would allow Control Authorities to focus their efforts on the facilities discharging the vast majority of the pollutants, rather than dissipating their limited resources on sites contributing much less to the overall problem. An indication of relative pollutant loadings by size of facility is provided in Table 26 below. The low flow sites could also be expected to reduce their discharges of pollutants, but they would do so by meeting local limits. EPA has consulted with representatives from EPA Regions, States and Municipalities, the majority of whom favor this approach to regulating the MP&M industry.

### *C. Calculation of PSES*

The proposed pretreatment standards for existing sources in the MP&M Phase I category are presented in today's proposed rule. The pretreatment standards are shown for cyanide and priority and nonconventional metal pollutants.

An oil and grease standard is proposed as an indicator for specific organic pollutants. The specific organic pollutants for which oil and grease is an indicator are 2-methylnaphthalene, 2-propanone, N-octadecane, and N-tetradecane. EPA identified these pollutants in MP&M waste water and determined that these pollutants will pass through a POTW. These pollutants are more likely to partition to the oily phase than the water phase, thus EPA believes that the treatment and removal of oil and grease in waste water will also result in significant removals of these pollutants. EPA's sampling results show higher percent removals are achieved through oil and grease treatment (BAT technology) than at a well-operated secondary POTW. EPA considered and rejected establishing a pretreatment standard for Total Toxic Organics (TTO) which would reflect the sum of concentrations achieved for several organic pollutants. The reason EPA rejected TTO as an approach to controlling organic pollutant discharges is that EPA knows that the industry is in the midst of a significant shift in the solvents it is using. Accordingly, EPA has no reason to believe that regulation of the specific list of organics identified as of today would reflect the organics that will be present in waste water when this regulation is promulgated. EPA is planning to continue to study the sources and concentrations of organic pollutants in MP&M waste water, particularly as sites switch from ozone-depleting solvents to aqueous-based cleaners. Accordingly, EPA may propose a different approach to controlling organic pollutant discharges for both Phase I and Phase II in conjunction with the MP&M Phase II rulemaking.

As with BAT proposed standards, the pretreatment standards are expressed in terms of concentration-based standards. As described above, EPA is proposing that MP&M sites be required to comply with a mass-based permit if their annual discharge volume equals or exceeds 1,000,000 gallons. The proposed PSES would require dischargers to meet ''maximum for any one day'' and ''maximum monthly average'' standards. The proposed PSES limitations for cyanide, priority and nonconventional metal pollutants, and oil and grease are identical to those limits established for these pollutants under proposed BAT Option 2.

Considering the large number of indirect dischargers which have the potential to be covered by this proposed regulation, an important issue to the affected industry and to permit writers is the potentially enormous administrative burden. Therefore, in developing this proposal, EPA has looked for means of reducing the administrative burden, reducing monitoring requirements, and reducing reporting requirements. The proposed exemption of existing indirect discharges discharging less than one million gallons per year is one means by which EPA is proposing to reduce the administrative burden.

*D. Applicability of PSES Limitations*

The Agency is proposing PSES under the MP&M Phase I category to apply to all MP&M process waste waters that are generated by sites performing manufacturing, rebuilding, or maintenance of metal parts, products, or machinery in one of the seven industrial sectors (i.e., aerospace, aircraft, electronic equipment, hardware, mobile industrial equipment, ordnance and stationary industrial equipment). The Combined Wastestream Formula will apply to sites which have operations covered by MP&M Phase I, existing effluent guidelines, or not covered by existing regulations.

*E. Removal Credits*

As described previously, many industrial facilities discharge large quantities of pollutants to POTWs where their wastes mix with waste water from other sources, domestic wastes from private residences and run-off from various sources prior to treatment and discharge by the POTW. Industrial discharges frequently contain pollutants that are generally not removed as effectively by waste water treatment at the POTWs as by the industries themselves.

The introduction of pollutants to a POTW from industrial discharges poses several problems. These include potential interference with the POTW's operation or pass-through of pollutants if inadequately treated. As discussed, Congress, in section 307(b) of the Act, directed EPA to establish pretreatment standards to prevent these potential problems. Congress also recognized that, in certain instances, POTWs could provide some or all of the treatment of an industrial user's wastestream that would be required pursuant to the pretreatment standard. Consequently, Congress established a discretionary program for POTWs to grant ''removal credits'' to their indirect dischargers. The credit, in the form of a less stringent pretreatment standard, allows an increased amount of pollutants to flow from the indirect discharger's facility to the POTW.

Section 307(b) of the CWA establishes a three-part test for obtaining removal credit authority for a given pollutant. Removal credits may be authorized only if (1) The POTW ''removes all or any part of such toxic pollutant,'' (2) the POTW's ultimate discharge would ''not violate that effluent limitation, or standard which would be applicable to that toxic pollutant if it were discharged'' directly rather than through a POTW and (3) the POTW's discharge would ''not prevent sludge use and disposal by such [POTW] in accordance with section [405]. * * *'' Section 307(b).

EPA has promulgated removal credit regulations in 40 CFR part 403.7. The United States Court of Appeals for the Third Circuit has interpreted the statute to require EPA to promulgate comprehensive sewage sludge regulations before any removal credits could be authorized. *NRDC* v. *EPA*, 790 F.2d 289, 292 (3rd Cir. 1986) *cert. denied*. 479 U.S. 1084 (1987). Congress made this explicit in the Water Quality Act of 1987 which provided that EPA could not authorize any removal credits until it issued the sewage sludge use and disposal regulations required by section 405(d)(2)(a)(ii).

Section 405 of the CWA requires EPA to promulgate regulations which establish standards for sewage sludge when used or disposed for various purposes. These standards must include sewage sludge management standards as well as numerical limits for pollutants which may be present in sewage sludge in concentrations which may adversely affect public health and the environment. Section 405 requires EPA to develop these standards in two phases. On February 19, 1993, EPA promulgated the Round One sewage sludge regulations establishing standards, including numerical pollutant limits, for the use and disposal of sewage sludge. 58 FR 9248. EPA established pollutant limits for ten metals when sewage sludge is applied to land, for three metals when it is disposed of at surface disposal sites and for seven metals and total hydrocarbons, a surrogate for organic pollutant emissions, when sewage sludge is incinerated. These requirements are codified at 40 CFR part 503.

The Phase One regulations partially fulfilled the Agency's commitment under the terms of a consent decree that settled a citizens suit to compel issuance of the sludge regulations. *Gearhart, et al.* v. *Reilly*, Civil No. 89–6266–JO (D.Ore). Under the terms of that decree, EPA must propose and take final action on Round Two sewage sludge regulations by December 15, 2001.

At the same time EPA promulgated the Round One regulations, EPA also amended its pretreatment regulations to provide that removal credits would be available for certain pollutants regulated in the sewage sludge regulations. *See* 58 FR at 9386. The amendments to part 403 provide that removal credits may be made potentially available for the following pollutants:

(1) If a POTW applies its sewage sludge to the land for beneficial uses, disposes of it on surface disposal sites or incinerates it, removal credits may be available, depending on which use or disposal method is selected (so long as the POTW complies with the requirements in part 503). When sewage sludge is applied to land, removal credits may be available for ten metals. When sewage sludge is disposed of on a surface disposal site, removal credits may be available for three metals. When the sewage sludge is incinerated, removal credits may be available for seven metals and for 57 organic pollutants. *See* 40 CFR 403.7(a)(3)(iv)(A).

(2) In addition, when sewage sludge is used on land or disposed of on a surface disposal site or incinerated, removal credits may also be available for additional pollutants so long as the concentration of the pollutant in sludge does not exceed a concentration level established in part 403. When sewage sludge is applied to land, removal credits may be available for two additional metals and 14 organic pollutants. When the sewage sludge is disposed of on a surface disposal site, removal credits may be available for seven additional metals and 13 organic pollutants. When the sewage sludge is incinerated, removal credits may be available for three other metals. *See* 40 CFR 403.7(a)(3)(iv)(B).

(3) When a POTW disposes of its sewage sludge in a municipal solid waste landfill that meets the criteria of 40 CFR part 258 (MSWLF), removal credits may be available for any pollutant in sewage sludge. *See* 40 CFR 403.7(a)(3)(iv)(C).

Thus, given compliance with the requirements of EPA's removal credit regulations,[1] following promulgation of the pretreatment standards being proposed here, removal credits may be authorized for any pollutant subject to pretreatment standards if the applying POTW disposes of its sewage sludge in a MSWLF that meets the requirements of 40 CFR part 258. If the POTW uses or disposes of its sewage sludge by land application, surface disposal or incineration, removal credits may be available for the following metal pollutants (depending on the method of use or disposal): arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, nickel and zinc. Given compliance with section 403.7, removal credits may be available for the following organic pollutants (depending on the method of use or disposal) if the POTW uses or disposes of its sewage sludge: benzene, 1,1-dichloroethane, 1,2-dibromoethane, ethylbenzene, methylene chloride, toluene, tetrachloroethene, 1,1,1-trichloroethane, 1,1,2-trichloroethane and trans-1,2-dichloroethene.

Some facilities may be interested in obtaining removal credit authorization for other pollutants being considered for regulation in this rulemaking for which removal credit authorization would not otherwise be available under part 403. As discussed in the sewage sludge regulations (58 FR 9382–83), EPA has concluded that removal credits should *not* be authorized for pollutants other than the pollutants specifically regulated by the final part 503 regulation. The Agency has determined that the CWA, as amended, removal credit eligibility is limited to those pollutants regulated specifically in Part 503 and to pollutants that the Agency determines do not threaten human health and the environment when used or disposed of in sewage sludge. When read together, sections 307(b) and 405 permit removal credits only when it can be determined that the increased concentrations or amounts allowed by the removal credit will not affect sewage sludge use or disposal adversely. EPA determined that a categorical pretreatment standard pollutant is eligible for removal credits only when EPA has either established a specific numerical limit for that pollutant or has evaluated it and concluded that it does not threaten public health or the environment. 58 FR 9382–83.

Consequently, in the case of a pollutant for which EPA did not perform a risk analysis in developing the Phase One sewage sludge regulations, removal credit for pollutants will only be available when the Agency determines either a safe level for the pollutant in sewage sludge or that regulation of the pollutant is unnecessary to protect public health and the environment from the reasonably anticipated adverse effects of such a pollutant.[2] Therefore, any person seeking to add additional categorical pollutants to the list for which removal credits are now available would need to submit information to the Agency to support such a determination. The basis for such a determination may include information showing the absence of risks for the pollutant (generally established through an environmental pathway risk assessment such as EPA used for Phase One) or data establishing the pollutant's presence in sewage sludge at low levels relative to risk levels or both. Parties, however, may submit whatever information they conclude is sufficient to establish either the absence of any potential for harm from the presence of the pollutant in sewage sludge or data demonstrating a ''safe'' level for the pollutant in sludge. Following submission of such a demonstration, EPA will review the data and determine whether or not it should propose to amend the list of pollutants for which removal credits would be available.

EPA has already begun the process of evaluating a number of pollutants for adverse potential to human health and the environment when present in sewage sludge. In May, 1993, pursuant to the terms of the consent decree in the *Gearhart* case, the Agency notified the United States District Court for the District of Oregon that, based on the information then available at that time, it intended to propose 31 pollutants for regulation in Round Two sewage sludge regulations. These are acetic acid (2, 4, -dichlorophenoxy), aluminum, antimony, asbestos, barium, beryllium, boron, butanone (2-), carbon disulfide, cresol (p-), cyanides (soluble salts and complexes), dioxins/dibenzofurans (all monochloro to octochloro congeners), endsulfan-II, fluoride, manganese, methylene chloride, nitrate, nitrite, pentachloronitrobenzene, phenol, phthalate (bis-2-ethylhexyl), polychlorinated biphenyls (co-planar), propanone (2-), silver, thallium, tin, titanium, toluene, trichlorophenoxyacetic acid (2, 4, 5-), trichlorphenoxypropionic acid ([2- (2, 4, 5-)], and vanadium.

The Round Two regulations are not scheduled for proposal until December, 1999 and promulgation in December 2001. However, given the necessary

[1] Under Section 403.7, a POTW is authorized to give removal credits only under certain conditions. These include applying for, and obtaining, approval from the Regional Administrator (or Director of a State NPDES program with an approved pretreatment program), a showing of consistent pollutant removal and an approved pretreatment program. *See* 40 CFR 403.7(a)(3) (i), (ii), and (iii).

[2] In the Round One sewage sludge regulation, EPA concluded, on the basis of risk assessments, that certain pollutants (*see* Appendix G to Part 403) did not pose an unreasonable risk to human health and the environment and did not require the establishment of sewage sludge pollutant limits. As discussed above, so long as the concentration of these pollutant in sewage sludge are lower than a prescribed level, removal credits are authorized for such pollutants.

factual showing, as detailed above, EPA could conclude before the contemplated proposal and promulgation dates that regulation of some of these pollutants is not necessary. In those circumstances, EPA could propose that removal credits should be authorized for such pollutants before promulgation of the Round Two sewage sludge regulations. However, because of the Agency's commitment to promulgation of effluent limitations and guidelines under the consent decree with NRDC, it may not be possible to complete review of removal credit authorization requests by the time EPA must promulgate these guidelines and standards.

EPA's proposal to establish pretreatment standards for oil and grease as an indicator for organic pollutants means that oil and grease is not subject to removal credits.

*F. Compliance Date*

EPA is proposing to establish a three-year deadline for compliance with PSES. Design and construction of systems adequate for compliance with PSES will be a substantial undertaking for many MP&M sites. In addition, Control Authorities will need the time to develop the mass-permits for their industrial users with annual discharge volumes greater than 1,000,000 gallons.

*G. PSES Pollutant Removals, Costs and Economic Impacts*

EPA estimates that the proposed PSES regulation will result in the removal of 14 million pounds per year of pollutants including 9.1 million pounds of priority and nonconventional metal pollutants and 2.1 million pounds of priority and nonconventional organic pollutants and cyanide. PSES is estimated to result in capital costs of approximately $ 351 million and annualized costs of $ 142 million (in 1994 dollars). EPA projects that 7 sites may be closed as a result of PSES, and job losses will affect 540 full-time employees (FTEs). However, EPA estimates that compliance activities may generate annual labor requirements which could more than offset these job losses.

## XIII. New Source Performance Standards (NSPS) and Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act calls for EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates new source performance standards (NSPS). New facilities have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies.

The same technologies discussed previously for BAT and PSES are available as the basis for NSPS and PSNS. Option 2 was the selected option for BAT and for large flow PSES, and the only higher technology option identified by EPA was Option 3. Option 3 includes advanced end-of-pipe treatment with significant reuse of process water. Since new sites have the potential to install pollution prevention and pollution control technologies more cost effectively then existing sources, Option 3 was considered for NSPS and PSNS. However, EPA did not select Option 3 technology as the basis for NSPS and PSNS because the costs do not justify the removals achieved. Therefore, EPA is proposing NSPS and PSNS for MP&M Phase I are based on the proposed Option 2 BAT technologies identified above. All NSPS and PSNS limits are expected to be mass-based. If mass-based limitations have not been developed as required, the source shall achieve discharges not exceeding the concentration limitations listed in the regulation.

## XIV. Economic Considerations

*A. Introduction*

EPA's economic impact assessment is set forth in the report titled ''Economic Impact Analysis Of Proposed Effluent Limitations Guidelines And Standards For The Metal Products And Machinery Industry, Phase I'' (hereinafter ''EIA''). This report estimates the expected economic effect of compliance with the proposed regulatory options in terms of facility closures and associated losses in employment. Firm-level impacts, local community impacts, international trade effects, labor requirements of compliance, and effects on new Metal Products and Machinery Industry (MP&M) facilities are also presented in this report. A Regulatory Flexibility Analysis detailing the small business impacts for this industry is also included in the EIA. In addition, EPA conducted an analysis of the cost-effectiveness of the regulatory options. The report, ''Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards of Performance for the Metal Products and Machinery Industry, Phase I'' is included in the record of this rule-making. EPA also prepared a background analysis of the economic conditions in the MP&M industry, ''Industry Profile Of the Metal Products and Machinery Industry, Phase I.'' The following discussion summarizes material from the Economic Impact Analysis, Cost-Effectiveness Analysis, and Industry Profile reports. The reader is referred to these reports for the full details of these analyses.

Analysis of the economic impacts of effluent guidelines for the MP&M industry relies heavily on the responses to the questionnaire distributed to MP&M facilities by EPA under the authority of Section 308 of the Clean Water Act (the DCP). As discussed above, EPA sent the questionnaire, requesting both technical and economic information, to 1,020 MP&M industry facilities (See Section V.A.2 for details). After detailed data cleaning and validation activities, the responses for 396 facilities, representing 10,601 water-discharging facilities in the MP&M industry population, were used in the industry impact analysis. EPA analyzed the economic impacts of the regulatory options applicable to MP&M Phase I facilities on the basis of data for the 396 sample facilities. The impacts assessed for these sample facilities were extrapolated to the level of the MP&M industry population using facility sample weights that are based on the sample design for the Section 308 survey. Unless otherwise indicated, the remainder of this discussion reports the estimated economic impacts for the MP&M industry population.

*B. Overview of the Facilities Potentially Subject to Regulation*

From secondary source data (Department of Commerce), EPA estimates that approximately 90,000 establishments or facilities participated in the MP&M Phase I business sectors as of 1987. Thus, the estimated 10,601 water-discharging facilities (from Section 308 Survey data) that would potentially be affected by this regulation represent about 11 percent of the total facilities in the MP&M Phase I business sectors. Of the 10,601 water-discharging facilities, EPA estimates that 8,706 facilities are indirect dischargers (i.e., they discharge effluent to a POTW) and would thus be subject to Pretreatment Standards for Existing Sources (PSES). The remaining 1,895 facilities are estimated to be direct dischargers (i.e., they discharge effluent directly to a waterway under a NPDES permit) and will thus be subject to Best Available Technology Economically Achievable (BAT) and Best Practicable Control Technology Currently Available (BPT) requirements as herein proposed.

The MP&M facilities that are expected to be subject to this regulation contribute significantly to the U.S. economy. Table 3, below, summarizes important economic data for the estimated 10,601 water-discharging facilities that are potentially subject to regulation and on which the economic

impact analysis for this regulation is based.

TABLE 3.—SUMMARY DATA FOR 1989 FOR FACILITIES SUBJECT TO REGULATION IN MP&M PHASE I SECTORS ESTIMATED REVENUE, VALUE ADDED AND PAYROLL IN MILLIONS OF 1989 DOLLARS

| Sector | Facilities | Employment | Revenue | Value added | Payroll |
|---|---|---|---|---|---|
| Hardware | 4,197 | 379,000 | 44,327 | 9,463 | 5,845 |
| Aircraft | 856 | 552,000 | 96,715 | 24,858 | 15,148 |
| Electronic Equipment | 1,280 | 700,000 | 155,101 | 80,502 | 12,503 |
| Stationary Industrial Equipment | 2,769 | 419,000 | 52,918 | 12,815 | 6,306 |
| Ordnance | 190 | 131,000 | 21,666 | 7,059 | 4,006 |
| Aerospace | 545 | 580,000 | 54,430 | 19,454 | 9,660 |
| Mobile Industrial Equipment | 764 | 275,000 | 65,914 | 14,101 | 8,151 |
| All Phase I Sectors | 10,601 | 3,036,000 | 491,071 | 168,252 | 61,620 |
| Total U.S. Manufacturing | ..... | 19,492,000 | 2,793,000 | 1,308,000 | 533,000 |
| Phase I Facilities as a Percent of Total U.S. Manufacturing | ..... | 15.58% | 17.58% | 12.86% | 11.56% |

Source: U.S. Environmental Protection Agency, Section 308 Survey Data, 1989, and Statistical Abstract of the United States, 1992, Department of Commerce.

These data show that the 10,601 facilities potentially subject to regulation employed over 3,000,000 persons in 1989 or approximately 16 percent of the total U.S. manufacturing employment of 19.5 million in 1989.[3] Total revenues for the 10,601 facilities are estimated at $491 billion or about 18 percent of the total shipments for U.S. manufacturing in 1989 of $2,793 billion. A more meaningful measure of the value of production activity in these facilities is provided by value added,[4] which is estimated to amount to about $168 billion or approximately 13 percent of the total value added of $1,308 billion for U.S. manufacturing in 1989. The estimated payroll for the 10,601 facilities is about $62 billion or approximately 12 percent of the total of $533 billion for U.S. manufacturing in 1989.

Table 3 also shows these economic activity data for the seven MP&M Phase I business sectors. On the basis of number of facilities, the Hardware, Stationary Industrial Equipment, and Electronic Equipment sectors are the largest sectors subject to regulation. These three sectors account for over 75 percent of the total of 10,601 facilities expected to be subject to regulation. However, on the basis of employment and dollar measures of economic activity, the Hardware sector is less dominant. A ranking on both employment and value added shows that Electronic Equipment is the largest sector in terms of economic contribution followed by Aircraft, Aerospace, Stationary Industrial Equipment, Mobile Industrial Equipment, Hardware, and Ordnance.

### *C. Overview of Options Considered for Proposal and Selection of the Proposed Options*

In developing the regulatory proposals presented herein, EPA defined and evaluated a number of PSES regulatory options for indirect dischargers and BAT/BPT options for direct dischargers. The following discussion defines the options that were considered for proposal and outlines the rationale for the regulatory proposals.

#### 1. PSES Options for Indirect Dischargers

As discussed previously in Sections IX, XI, and XII, EPA initially evaluated three PSES regulatory options for indirect dischargers:

*Option 1: Lime and Settle Treatment.* Under this option, Pretreatment Standards for Existing Sources (PSES) would be established on the basis of the application of lime and settle treatment without any pollution prevention and flow controls imposed. The implementation of this option would likely result in concentration-based standards imposed on facilities by Control Authorities.

*Option 2: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment.* This option would establish PSES on the basis that all facilities should comply with mass-based standards that are the based on the Lime and Settle technology and associated concentration limits as specified for Option 1. However, the mass-based standards would be calculated from a flow volume that reflects good pollution prevention and water conservation practices. Thus, this option embodies a requirement for pollution prevention and water conservation in conjunction with the Lime and Settle Treatment process. The flow basis would be determined by the relevant Control Authority using site-specific factors and flow guidance.

*Option 3: Advanced End-of-Pipe Treatment.* This option would establish PSES based on the same technology and mass-based limit specifications as set forth for in Option 2 *plus* additional end-of-pipe treatment through reverse osmosis or ion exchange to achieve additional removals and produce a treated wastewater that can be recycled back to the facility for reuse as process waters.

From its preliminary analysis of these options, EPA initially selected Option 2, In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment, as the preferred PSES regulatory option for indirect dischargers. Stated simply, EPA preferred Option 2 because it would apply to all indirect discharging facilities, mass-based standards that embody best available technology based on a combination of treatment systems and pollution prevention measures. Moreover, EPA found that Option 2 would impose relatively modest economic impacts in terms of expected facility closures and employment losses in the MP&M industry and thus concluded that Option 2 would be

[3] Although the MP&M Phase I sectors include non-manufacturing activities and employment, nearly 95 percent of the revenue received by facilities affected by the regulation is estimated to be derived from manufacturing activities. Thus, the comparison of employment and other economic values with totals for the U.S. manufacturing sector provides a relevant basis for understanding the economic significance of the industries and facilities expected to incur costs under the regulation.

[4] Value Added is the difference between the output price of a good or service and the price of all material inputs used in producing the good or service, and is generally considered a better measure than revenue of the value of production that occurs in a given economic activity.

economically achievable. However, upon further analysis and consideration, EPA reached additional findings that weighed against the proposal of Option 2 and caused the Agency to define and evaluate modifications to Option 2 as the basis for a PSES proposal. These findings involved three issues as follows:

*Impact on small business.* In its Regulatory Flexibility Analysis, EPA found that Option 2 would be expected to disproportionately burden small business-owned facilities in terms of facility closures and financial requirements. In particular, by embodying technology requirements for pollution prevention as well as treatment systems, Option 2 was found to impose greater financial burden on MP&M small business-owned, indirect discharging facilities than would result from the treatment system-only basis of Option 1. As discussed in Section K., Regulatory Flexibility Analysis, below, EPA considered modifications to Option 2 in an effort to mitigate financial and economic burdens on small business-owned facilities. These modifications differentiated among facilities based on the annual volume of facility discharge; however, EPA anticipated that reducing regulatory requirements for small discharge volume facilities would also mitigate the regulatory burden among small business entities.

*Cost effectiveness.* For indirect discharging facilities with smaller discharge volumes, EPA found that Option 2 would not be cost effective (see Section L, below). That is, for facilities with smaller discharge volumes, Option 2 would not achieve sufficient additional reductions in pollutant discharges beyond those achieved by Option 1 to support its higher cost relative to Option 1. In view of this finding, EPA considered modifications to Option 2 that would be more cost effective for indirect discharging facilities with smaller discharge volumes.

*Impact on permitting authorities.* EPA was concerned that Option 2, by requiring mass-based permits for all indirect discharging facilities, regardless of discharge volume, would substantially burden the authorities that administer the permit requirements. In particular, as part of the public participation in the regulation development process, the Association of Metropolitan Sewerage Agencies (AMSA) commented that the permit administration requirements of covering small discharge facilities under mass-based limitations would unduly burden permitting authorities. In its analysis of the MP&M Phase I industry, EPA estimated that a large percentage of indirect discharging facilities had relatively small annual discharge: over 75 percent of the estimated 6,700 indirect discharging facilities discharge less than 1 million gallons annually. Thus, EPA acknowledged that Option 2 would require a large number of permits to be written for these smaller discharge volume facilities and could therefore impose a substantial burden on permitting authorities. In response to this concern, EPA undertook a limited analysis of the likely costs to permitting authorities of issuing mass-based and concentration-based permits. This analysis indicated that the cost to permitting authorities of covering smaller discharge volume facilities (less than 1 million gallons per year) could vary considerably among permitting authorities but, in aggregate, might not be excessive: EPA estimated a total annual cost of $1.9 to $3.2 million ($1994) for writing and administering permits for indirect discharging facilities with effluent discharge of less than 1 million gallons per year. Still, in view of the limited nature of EPA's analysis of permitting costs and, moreover, in view of the findings with regard to small business impact and cost effectiveness (which also argued for moderating requirements among smaller facilities), EPA decided to define and evaluate modifications to Option 2 that would reduce the number of mass-based permits needed for implementing the regulation. Because of the conflicting information and findings regarding the burden of permit administration, EPA requests that permitting authorities comment on this issue.

On the basis of these findings, EPA defined and evaluated two additional PSES regulatory options for indirect discharging facilities: Option 1a and Option 2a. EPA found that both options addressed the issues described above and presented superior alternatives to Options 1, 2, or 3, alone, for regulatory proposal. However, with respect to each of the issues noted above—impact on small business, cost effectiveness, and burden on permit writing authorities—EPA found that Option 2a provided a better solution than Option 1a. Accordingly, EPA is proposing Option 2a as the preferred PSES option for indirect discharging facilities. Option 1a and Option 2a, together with the basis of their selection for regulatory proposal, are discussed below:

*Option 1a: Tiered PSES for ''Low'' Flow and ''Large'' Flow Sites.* This option would establish a tiered PSES requirement and blends elements of Option 1 and Option 2 depending on a site's annual discharge volume. Sites with a discharge volume of less than 1,000,000 gallons per year (''low'' flow sites) would meet the concentration-based standard set forth in Option 1. Sites with a discharge volume of at least 1,000,000 gallons per year (''large'' flow sites) would meet the mass-based standards that embody pollution prevention as well as the Lime and Settle Treatment process as set forth in Option 2.

By adopting the concentration-based requirements of Option 1 for ''low'' flow sites, Option 1a reduces the number of facilities for which mass-based permits would need to be written. In addition, Option 1a reduces the expected compliance costs and financial burdens for the smaller discharge volume facilities, many of which are small businesses. Finally, because of the reduced requirements on smaller discharge volume facilities, Option 1a achieves better cost effectiveness than Option 2.

*Option 2a: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment for ''Large'' Flow Sites.* This option would establish the same PSES requirements as specified for Option 2. However, these requirements would apply to only ''large'' flow sites—that is, indirect discharge sites with a discharge volume of at least 1,000,000 gallons per year. All such sites would comply with mass-based standards based on the Lime and Settle Treatment process coupled with a requirement for pollution prevention and water conservation as specified for Option 2. ''Low'' flow indirect discharge sites—that is, with a discharge volume of less than 1,000,000 gallons per year—would not be subject to PSES requirements. EPA estimates that, of the 8,706 indirect discharge facilities in the MP&M Phase I industry, 6,708 would qualify as low flow discharge sites and thus would not be subject to the Option 2a PSES requirement.

By exempting low flow discharge sites from PSES regulatory requirements, Option 2a, even more than Option 1a, mitigates the difficulties of Option 2. Specifically, because of the regulation's reduced coverage in terms of number of facilities, Option 2a would substantially reduce the burden on permit-writing authorities. In addition, low flow indirect discharging facilities would bear no costs as a result of regulation, substantially reducing financial burdens and closure impacts among small business-owned facilities. Finally, as discussed below at Section L, EPA found that Option 2a would be expected to achieve substantially better cost effectiveness than the other regulatory

options considered for indirect discharging facilities.

Thus, EPA found that Option 2a addresses the limitations of Option 2 while imposing even fewer economic impacts than Option 2 or Option 1a in terms of facility closures and financial burdens. Moreover, Option 2a embodies best available technology for reducing the industry's effluent discharges. Accordingly, EPA judges that Option 2a presents a balanced regulatory approach for reducing effluent discharges from the MP&M Phase I indirect discharging facilities while not imposing undue burdens on industry or on the permit-writing authorities that will be directly responsible for administering the regulation.

2. BAT/BPT Options for Direct Dischargers

As discussed previously in Sections IX, XI, and XII, EPA evaluated three BAT/BPT regulatory options for direct discharging facilities:

*Option 1: Lime and Settle Treatment.* Under this option, BAT/BPT would be established on the basis of the application of lime and settle treatment without any pollution prevention and flow controls imposed.

*Option 2: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment.* Option 2 includes the same technology basis as Option 1, lime and settle treatment, but adds in-process pollution prevention and flow controls.

*Option 3: Advanced End-of-Pipe Treatment.* Option 3 includes the same treatment technology and in-process pollution prevention and flow controls as set forth in Option 2 *plus* additional end-of-pipe treatment through reverse osmosis or ion exchange to achieve additional removals and produce a treated wastewater that can be recycled back to the facility for reuse as process waters.

Of these options, EPA selected Option 2 as the proposed BPT/BAT regulation for direct existing discharging facilities. Like Option 2a for indirect discharging facilities, Option 2 embodies best available technology for reducing effluent discharges. Moreover, EPA found that Option 2 would impose modest economic impacts in terms of facility closures, employment losses, and financial requirements. As discussed in Section L, below, EPA also found that Option 2 is cost effective. Finally, EPA concluded that Option 2 (in combination with Option 2a for indirect dischargers) would impose a modest and manageable burden among small business-owned, direct discharging facilities.

The following sections summarize the specific analyses and findings leading to EPA's selection of Option 2a for indirect dischargers and Option 2 for direct dischargers as the proposed regulatory alternatives for existing facilities in the MP&M Phase I industries.

*D. Economic Impact Methodology*

The promulgation of a BAT effluent guideline rests on a finding of economic achievability. As described earlier in Section III of this Preamble, EPA is proposing to establish BAT equal to BPT. BPT effluent limitations do not face the same economic achievability test as BAT. Therefore, the following discussion of economic achievability describes the regulatory approach in terms of BAT economic achievability. The analyses supporting the determination of economic achievability for this proposed regulation include a facility impact analysis, which assesses how facilities are expected to be affected financially by the proposed regulation. Key outputs of the facility impact analysis include expected facility closures in the MP&M industry and the associated losses in employment and value of economic activity in those facilities. The findings from the facility impact analysis provide the basis for the other analyses regarding the economic achievability of the regulation. These include:

- A *firm-level analysis*, which assesses the impact of effluent guidelines on the financial performance and condition of firms owning MP&M facilities subject to regulation;
- A *labor requirements analysis*, which assesses the likely demands for labor that will accompany the activities of facilities to comply with effluent guidelines.
- A *community impact analysis*, which assesses the local employment impact of possible facility closures;
- A *foreign trade analysis*, which assesses the effect of effluent guidelines on the international competitiveness and balance of trade of the MP&M industries.
- A *new source impact analysis*, which assesses the effect of effluent guidelines on the costs and financial viability of new facilities in the MP&M industries; and
- The *Regulatory Flexibility Analysis*, which assesses the economic and financial impacts of effluent guidelines for the MP&M industries on small businesses.

The following section of the preamble addresses the facility impact analysis. This discussion is followed by the other analyses of the economic impact of effluent guidelines for the MP&M industries.

1. Structure of the Facility Impact Analysis

The facility-level impact analysis involves a series of financial analyses to assess the expected occurrence of significant financial impacts as the result of an MP&M effluent guideline. Several considerations define the structure of the facility impact analysis, including: the impact categories analyzed; baseline and post-compliance analyses; assumptions regarding the ability of facilities to pass compliance costs on to customers; and whether facilities were expected to discharge effluent to a publicly owned treatment works (POTW) (i.e., indirect dischargers) or directly to a waterway (i.e., direct dischargers). Each of these considerations is discussed briefly below.

a. Impact Categories Analyzed

Two categories of significant impact are assessed: (1) *facility closure*, which is judged as a severe economic impact, in that all employment and production at the facility are assumed to be terminated; and (2) *financial stress short of closure*, which is judged to be a moderate economic impact. The estimates of facility closures and associated employment and production losses underlie the other analyses required for the assessment of economic achievability. The second impact category, financial stress short of closure, signifies that facilities may experience difficulty in financing the pollution prevention and treatment systems needed for compliance or that, because of compliance, may subsequently experience difficulty in financing other capital needs.

b. Baseline and Post-Compliance Analyses

The facility closure analyses were undertaken on both a pre-compliance, or baseline, basis, and a post-compliance basis. The purpose of the Baseline Analysis is to identify facilities that are currently experiencing or are projected to experience significant financial stress following the period for which the Survey was completed. These facilities are having or are expected to have serious financial difficulties *regardless of the promulgation of effluent guidelines.* Attribution of these financial difficulties to the effluent guidelines rather than to facilities' current financial problems would inaccurately represent the burden of the effluent guidelines. Accordingly, facilities that failed the baseline analysis

were excluded from the subsequent, post-compliance analyses that measure the impact of compliance on financial performance and condition.

The Post-Compliance Analyses differ from the Baseline Analysis by accounting for the capital and operating costs of pollution prevention and discharge treatment systems needed to comply with regulatory options. The post-compliance analyses thus indicate how facility financial performance and condition are likely to be affected by the proposed regulation and provide the basis for identifying whether facilities may be expected to incur a significant financial impact.

c. Pass Through of Compliance Costs to Customers

The analyses of Post-Compliance Closure and Financial Stress Short Of Closure were performed under assumptions of both zero-cost-pass-through and partial-cost-pass-through of compliance costs to customers. The zero-cost-pass-through case provides a conservative assessment of regulatory impacts in that facilities are assumed to pass none of the costs of compliance through to customers. That is, both quantities and prices—and therefore revenues—for each facility's production were assumed to remain constant after compliance *even though costs were increased on the basis of the estimated equipment and operating requirements for effluent guidelines compliance.* Because it is likely that companies would both attempt and be able to recover some of the compliance costs by increasing prices, the no-cost-pass-through case represents an extremely conservative, worst case assessment of the effects of the regulation.

For a more realistic assessment of impacts, EPA also analyzed the impact of regulatory options under an assumption of partial-cost-pass-through. For the partial-cost-pass-through analysis, EPA estimated the ability of firms in each of the MP&M sectors to recover compliance costs from customers. The assessment of cost pass-through potential was based on an econometric analysis of historical pricing and cost trends in the MP&M industries over a fifteen-year period coupled with an analysis of market structure factors that provide additional insight into the likely ability of firms to pass on higher costs to customers. Market structure factors considered in the analysis include: market power based on horizontal and vertical integration; extent of competition from foreign suppliers (both in domestic and export markets); barriers to competition as indicated by higher than normal profitability; and the long term growth trend in the industry. The analysis of pass-through potential yielded a pass-through parameter applicable to each MP&M industry sector indicating the fraction of compliance costs that firms subject to regulation are expected to recover from customers through increased revenues. The partial-cost-pass-through analysis yielded modestly lower impacts in terms of expected facility closures and losses in employment and production.

d. Facility Discharge Status

Whether facilities discharge effluent streams to a publicly owned treatment works (POTW) (i.e., indirect dischargers) or directly to a waterway (i.e., direct dischargers) is relevant to the structure of the economic impact analysis because these facilities and their effluent streams are regulated under different technology standards. Indirect dischargers are subject to Pretreatment Standards for Existing Sources (PSES) while direct dischargers are subject to Best Available Technology Economically Achievable (BAT), Best Practicable Control Technology Currently Available (BPT), and Best Conventional Pollutant Control Technology (BCT) requirements. For this regulation, different sets of regulatory options were considered for indirect and direct dischargers. As discussed above, five PSES regulatory options were considered for indirect dischargers and three BAT/BPT options were considered for direct dischargers. EPA performed the facility impact analyses separately for these two classes of facilities and the regulatory options that were considered for them. In the following discussion, economic impact analysis results are presented separately for the two classes of facilities and are also summed for the proposed options for both facility classes.

2. Data Supporting the Facility Impact Analysis

The most important source of data for the facility impact analysis is the facility-level financial data obtained by the DCP. These data include: three years (1987–89) of income statements and balance sheets at the level of the facility; the composition of revenues by customer type and MP&M business sector; estimated value of facility assets and liabilities in liquidation; borrowing costs; and ownership of the facility business and total revenues of the owning entity (if separate from the facility).

In addition to the DCP data, several secondary sources provided data for the analysis. In most cases, secondary source data were used to characterize a background economic or financial condition, in the economy as a whole or in the particular industries subject to the MP&M effluent guideline. For example, secondary source data were used to define capital market conditions underlying the cost-of-capital analysis. Secondary source data also figured prominently in the analysis of cost pass-through potential for the MP&M sectors. Secondary sources used in the analysis include:[5]

- Department of Commerce economic census and survey data including the *Censuses of Manufacturers, Annual Surveys of Manufacturers,* and international trade data;
- The *Benchmark Input-Output Tables of the United States,* published by the Bureau of Economic Analysis in the Department of Commerce;
- Price index series from the Bureau of Labor Statistics, Department of Labor;
- *U.S. Industrial Outlook,* published by the Department of Commerce;
- Industry trade publications; and
- Financial publications, including the Value Line Investment Survey and Robert Morris Associates annual data summaries.

Other vital data for the analysis of facility impacts include the estimates of capital and operating costs for complying with regulatory options. These cost estimates were developed by EPA from engineering studies of sample MP&M industry facilities. These studies took into account the characteristics of effluent discharges and existing treatment systems at the facilities and estimated the additional pollution prevention and treatment system needs for complying with the alternative regulatory options. The estimated capital costs and annual operating and maintenance costs for pollution prevention and treatment systems provided the basis for assessing how an effluent guideline would be likely to affect the financial performance and condition of MP&M facilities and whether those facilities might be expected to incur significant economic impacts.

3. Methodology for Calculating Facility Impacts

The estimation of facility impacts is based on the following analyses: the Baseline Closure Analysis, the Post-Compliance Closure Analysis, and the Financial Stress Short of Closure Analysis. Each analysis is described briefly in the following section. Table 4,

[5] See the Public Record for a detailed listing of the secondary information sources used in the economic impact analysis.

below, summarizes the methodology for each impact category.

a. Baseline Closure Analysis

The Baseline Facility Closure Analysis is based on two financial tests, both of which must be failed for the facility to be deemed a closure:

1. *After-Tax Cash Flow Test.* This test examines whether a facility has lost money on a cash basis for the three years covered by the DCP. If the facility's cash flow is negative when averaged over the period of analysis, then the facility's management and ownership is presumed to be under pressure to change operations or business practices to eliminate future losses. One possible change is to terminate operations at the facility. Whether it may be financially advantageous to the facility's ownership to terminate facility operations is the subject of the second financial test.

2. *Liquidation Value and Going-Concern Value Comparison Test.* This test examines whether the liquidation value of facility assets exceeds the going concern value of the facility based on a discounted value analysis of the facility's after-tax cash flow. The liquidation value of facility assets was calculated from information provided by facilities in the DCP and reflects the market value of facility assets less expenses associated with closure and liquidation. The financial question underlying this comparison is whether the facility is worth more in liquidation or in its current operation (i.e., as a going concern). If the liquidation value exceeded the going-concern value, then facility ownership is presumed to see a reward for terminating the facility's business and liquidating its assets.

If a facility failed both tests, then the facility was presumed to be in jeopardy of financial failure independent of the application of the MP&M effluent guideline and was excluded from further consideration in the analysis of effluent guideline impacts. Failure of the after-tax cash flow tests means that the facility is incurring a cash loss and is thus under financial pressure to alter its business to prevent future losses. Failure of the liquidation value/going-concern value test means that facility ownership would benefit financially by terminating operations and liquidating facility assets. The combination of these two circumstances leads to the expectation that facility management and ownership may decide to cease business at the facility independent of the application of an MP&M effluent guideline. Facilities failing only one test were carried forward to the post-compliance analysis; because of their more fragile condition, these facilities were more likely to fail that analysis.

b. Post-Compliance Closure Analysis

The Post-Compliance Closure analysis is identical in structure to the Baseline Closure Analysis with the exception that the after-tax cash flow amounts used in the After-Tax Cash Flow test and in the Liquidation Value and Going-Concern Value Comparison test are adjusted to reflect the annual cash outlays for financing and operating the pollution prevention and treatment systems needed to comply with an MP&M effluent guideline. The adjustments to cash flow reflect the annualized costs of purchasing and financing equipment for compliance with the alternative regulatory options and include allowances for the cost of debt and equity financing. In addition, the cash flow adjustments reflect the annual costs incurred by facilities for operating and maintaining the pollution prevention and treatment systems needed for compliance. The capital cost and operating and maintenance costs that underlie these cash flow adjustments were estimated by EPA on the basis of engineering studies of pollution prevention and treatment system needs at sample MP&M facilities for complying with alternative regulatory options.

In the same way as for the Baseline Closure Analysis, a facility was judged likely to close as a result of regulation only if the facility fails both the After-Tax Cash Flow Test and the Liquidation Value and Going-Concern Value Comparison Test. The requirement to fail both tests again rests on the logic that negative cash flow provides the impetus for considering facility closure to avoid future losses and the excess of liquidation value over going concern value provides the reward for doing so.

The analysis of post-compliance facility closures was undertaken for the sample facilities that were not assessed as baseline closures. These results were then extrapolated to the facility population using sample weights. As discussed above, facility closure is considered a severe economic impact as all employment and production from the facility is assumed to be lost as a result of closure. Moreover, for this analysis, none of the production or employment losses were assumed to be offset by possible increases in MP&M production activity at other facilities that remain in production. Thus, the assumption of full loss of employment and production in closing facilities is conservative and overstates possible employment and production impacts.

c. Analysis of Financial Stress Short of Closure

The analysis of Financial Stress Short of Closure identifies facilities whose financial condition is so weak as to imply difficulty in financing the treatment system investments for compliance with an MP&M effluent guideline. This analysis was undertaken only for those facilities that passed the preceding Facility Closure analysis. Facilities that fail the Financial Stress analysis were judged as likely to experience a financial impact that is less severe than closure as the result of efforts to comply with an MP&M effluent guideline. However, they would be expected to incur significant financial stress from undertaking compliance-related investments and/or incurring the operating cost burdens of compliance. Financing assistance might be required from the parent firm or through an equity infusion or other financial restructuring. These facilities or firms are projected to become among the poorer, but still viable, financial performers in an industry. Although they are not projected to fail or otherwise terminate operations directly because of compliance requirements, the deterioration in their financial performance would presumably leave them at greater risk of failure from other factors in their business environment.

The analysis of Financial Stress Short of Closure was based on two tests of financial performance and condition calculated at the facility level. The measures of financial performance and condition—pre-tax return on assets and interest coverage ratio—are among the more important criteria reviewed by creditors and equity investors in determining whether and under what terms to provide financing to a firm. These measures also provide insight into the ability of firms to generate funds for compliance investments from internally generated equity—that is, from after-tax cash flow. The basis for evaluating these measures was by comparison of the facility values with industry norms obtained from secondary sources.

The analyses of pre-tax return on assets (ROA) and interest coverage ratio (ICR) were performed by first calculating ROA and ICR values for facilities independent of the financial effects of complying with an effluent guideline. The ROA and ICR values were then adjusted to reflect the expected changes in facility finances resulting from installing and operating the pollution prevention and treatment systems needed for effluent guidelines compliance. As a result of the

compliance-related outlays, if a facility's ROA *or* ICR fell below industry norms, the facility was judged likely to incur a moderate impact (i.e., financial stress short of closure) as a result of regulatory compliance. The industry norms for evaluating ROA and ICR were developed from data reported in Robert Morris Associates Annual Statement Summaries (RMA).[6] Specifically, facility ROA and ICR values were compared with the lowest quartile (i.e., 25th percentile) value for the respective financial measures as calculated from RMA data for the relevant industries over the period 1985–1992.

TABLE 4.—SUMMARY OF FACILITY IMPACT METHODOLOGY

| Impact category | Description | Analysis | Significance of negative finding |
|---|---|---|---|
| 1. Baseline Closure | Identifies facilities that are in jeopardy of financial failure regardless of the promulgation of effluent guidelines. | Two tests: 1. After-tax cash flow negative? *and* 2. Liquidation value exceed going concern value? | Facilities failing *both* tests are considered a baseline closure and excluded from subsequent analyses. |
| 2. Post-Compliance Closure | Identifies facilities that are likely to close instead of implementing the pollution prevention and treatment systems needed for effluent guidelines compliance. | Two tests: 1. *Post-compliance* after-tax cash flow negative? *and* 2. Liquidation value exceed post-compliance going concern value? | Facilities failing *both* tests are projected to close as the result of regulation, a severe economic impact. |
| 3. Financial Stress Short of Closure. | Identifies facilities with limited ability to finance the pollution prevention and treatment systems needed for effluent guidelines compliance. | Two tests: 1. Decline in pre-tax ROA to a level that jeopardizes access to financing? *or* 2. Decline in ICR to a level that jeopardizes access to financing? | Facilities failing *either* test are likely to experience financial weakness as the result of regulation, a moderate economic impact. |

*E. Estimated Facility Economic Impacts*

The findings from the facility impact analysis are summarized below.

1. Baseline Closure Analysis

The estimated baseline closures for both indirect and direct discharge facilities are summarized in Table 5. Of the estimated 10,601 discharging facilities, 13.9 percent or 1,471 facilities were assessed as baseline closures from the financial analyses outlined above. The 1,471 baseline closures include 1,413 indirect dischargers, or 16.2 percent of indirect dischargers, and 58 direct dischargers, or 3.1 percent of direct dischargers. The facilities estimated to close in the baseline analysis are in jeopardy of financial failure independent of the promulgation of the MP&M regulation. The estimated baseline closures are removed from the subsequent post-compliance analysis of regulatory impacts.

TABLE 5.—SUMMARY OF BASELINE CLOSURE ANALYSIS

| | Total | Indirect dischargers | Direct dischargers |
|---|---|---|---|
| Facilities in Analysis (dischargers only) ... | 10,601<br>100.0% | 8,706<br>82.1% | 1,895<br>17.9% |
| Baseline Failures (percent failing in class) ..... | 1,471<br>13.9% | 1,413<br>16.2% | 58<br>3.1% |
| Facilities in Analysis (percent in class) ..... | 9,130<br>86.1% | 7,293<br>83.8% | 1,837<br>96.9% |

2. Post-Compliance Impact Analysis

The findings from the Post-Compliance Impact Analyses are summarized below. Findings are presented first for the PSES options considered for indirect discharging facilities, and then for the BAT/BPT options considered for direct discharging facilities. A third section presents aggregate findings for the proposed PSES and BAT/BPT options for both discharger classes. In each discussion, findings in terms of estimated facility closure and lost employment and production are presented for both the highly unlikely zero-cost-pass-through case and the more realistic partial-cost-pass-through case. The expected impacts of compliance in terms of estimated total capital cost and total annual costs are also summarized. In addition, the numbers of facilities expected to incur moderate impacts are discussed.

a. Indirect Dischargers

For indirect discharging facilities, EPA analyzed the impacts of five possible PSES regulatory options—Options 1, 2, 3, 1a, and 2a—as discussed in Section XIV.C., above, and as described in Section XII of the technical discussion. Of the options considered, EPA is proposing Option 2a as the preferred PSES regulatory option. As discussed in Section XII, Option 2a embodies best available technology for reducing the industry's effluent discharges. In addition, EPA estimates that Option 2a will impose very modest economic impacts and is thus economically achievable. The estimated facility-level impacts associated with each of the regulatory options are discussed below and presented in Table 6. The discussion first reviews the impact findings for the three PSES options that EPA initially evaluated for proposal: Options 1, 2, and 3. The discussion then reviews the impact findings for the two PSES options that were subsequently developed: Option 1a and the PSES proposal, Option 2a. As described previously, Option 1a applies the requirements of Option 1 *or* Option 2 to facilities based on whether facilities are ''low'' flow (i.e., discharge volume of less than 1,000,000 gallons per year) or ''large'' flow (i.e., discharge volume of at least 1,000,000 gallons per year), while

[6] RMA provides financial statistics based on bank credit reports from public-reporting and non-public-reporting firms in a variety of industries.

Option 2a applies the requirements of Option 2 to only ''large'' flow facilities.

*i. Impacts of Option 1: Lime and Settle Treatment*

Zero-Cost-Pass-Through Analysis

Of the 7,293 indirect discharging facilities subject to regulation, EPA estimates that 161 facilities or 2.2 percent could be expected to close as the result of the Option 1 regulation. The employment and shipments losses associated with these facility closures are estimated at 3,001 full-time equivalent (FTE) positions and $370 million, respectively (all amounts in 1994 dollars). The estimated employment and shipments losses amount to 0.14 percent and 0.08 percent, respectively, of the total values for indirect discharging facilities *that pass the baseline closure analysis* and are thus the basis for the post-compliance analysis. The estimates of possible facility closures and associated losses in employment and shipments are probably substantial overestimates because of the assumption of zero-cost-pass-through and because the analysis does not account for the likelihood that non-closing facilities will absorb some of the lost production and employment from closing facilities. In addition to the facility closure impacts, another 42 facilities would be expected to incur financial stress short of closure, a moderate economic impact, under Option 1. EPA estimates that industry would incur capital costs of $276 million for complying with Option 1. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $202 million.

TABLE 6.—ESTIMATED IMPACTS OF REGULATORY COMPLIANCE, INDIRECT DISCHARGERS

[Dollar values in $000, 1994]

| | Options initially considered for proposal | | | Subsequent options | |
|---|---|---|---|---|---|
| | Option 1 | Option 2 | Option 3 | Option 1a | Option 2a |
| Facilities in Analysis | 7,293 | 7,293 | 7,293 | 7,293 | 1,792 |
| **Severe Impacts (closing facilities) Zero-Cost-Pass-Through Analysis (unrealistic worst case)** | | | | | |
| Number of Facilities | 161 | 151 | 227 | 151 | 7 |
| Percent of Class | 2.20% | 2.07% | 3.11% | 2.07% | 0.39% |
| Employment (FTEs) | 3,001 | 2,354 | 18,215 | 2,354 | 540 |
| Value of Shipments | $369,997 | $235,852 | $2,350,346 | $235,852 | $133,678 |
| **Moderate Impacts (financial stress short of closure)** | | | | | |
| Number of Facilities | 42 | 124 | 184 | 54 | 12 |
| Financial Impacts on Complying Facilities: | | | | | |
| Capital Cost | $275,798 | $436,293 | $1,174,721 | $437,209 | $350,853 |
| Total Annual Compliance Cost: | | | | | |
| Tax-adjusted* | $202,115 | $213,530 | $615,530 | $208,639 | $142,467 |
| No adjustments† | $271,020 | $267,544 | $783,691 | $259,994 | $171,134 |
| **Severe Impacts (closing facilities) Partial-Cost-Pass-Through Analysis** | | | | | |
| Number of Facilities | 91 | 52 | 160 | 82 | 7 |
| Percent of Class | 1.25% | 0.72% | 2.20% | 1.12% | 0.39% |
| Employment (FTEs) | 1,714 | 892 | 7,710 | 1,068 | 540 |
| Value of Shipments | $325,896 | $177,109 | $858,207 | $191,751 | $133,678 |
| **Moderate Impacts (financial stress short of closure)** | | | | | |
| Number of Facilities | 0 | 41 | 66 | 12 | 12 |
| Financial Impacts on Complying Facilities: | | | | | |
| Capital Cost | $279,029 | $439,840 | $1,195,482 | $440,441 | $350,853 |
| Total Annual Compliance Cost: | | | | | |
| Tax-adjusted* | $203,647 | $215,274 | $629,618 | $210,171 | $142,467 |
| No adjustments† | $272,914 | $269,717 | $802,156 | $261,888 | $171,134 |

*''Tax-adjusted'' compliance costs are an estimate of the annual cash compliance cost *to industry* and reflect private costs of capital and expected tax treatment of capital outlays and annual expenses.

†Compliance costs with ''No adjustments'' are an estimate of the total annual cost of compliance without tax adjustments and with capital costs annualized on the basis of a real social discount rate.

Partial-Cost-Pass-Through Analysis

The more realistic, partial-cost-pass-through analysis shows fewer impacts under Option 1. Among indirect dischargers, 91 facilities or 1.3 percent would be expected to close as a result of such regulation and no additional facilities are expected to incur moderate economic impacts. Employment and shipments losses associated with closing facilities are estimated at 1,714 FTEs (0.08 percent of total for indirect discharging facilities in the post-compliance analysis) and $326 million (0.07 percent of total) respectively. Because additional facilities are expected to come into compliance (instead of closing) under the partial-cost-pass-through analysis, the costs of compliance are estimated to be modestly higher. Total capital costs of compliance are estimated at $279 million and total annualized

compliance costs are estimated at $204 million, tax-adjusted.

*ii. Impacts of Option 2: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment*

Zero-Cost-Pass-Through Analysis

Under Option 2, EPA estimates that 151 facilities or 2.1 percent could be expected to close as the result of regulation. The employment and shipments losses associated with these facility closures are conservatively estimated at 2,354 FTEs (0.11 percent of total) and $236 million (0.05 percent of total), respectively. In addition to the facility closure impacts, another 124 facilities are expected to incur financial stress short of closure because of regulation. EPA estimates that industry will incur capital costs of $436 million for complying with Option 2. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $214 million.

Partial-Cost-Pass-Through Analysis

Under the more realistic, partial-cost-pass-through analysis, 52 facilities or 0.7 percent of indirect dischargers passing the baseline analysis are expected to close as a result of regulation and another 41 facilities are expected to incur moderate economic impacts. Employment and shipments losses associated with closing facilities are estimated at 892 FTEs (0.04 percent of total) and $177 million (0.04 percent of total) respectively. Total capital costs of compliance are estimated at $440 million and total annualized compliance costs are estimated at $215 million, tax-adjusted.

*iii. Impacts of Option 3: Advanced End-of-Pipe Treatment*

Zero-Cost-Pass-Through Analysis

Impacts under Option 3 are estimated to be markedly higher than those for Options 1 or 2. Under Option 3, EPA estimates that 227 facilities or 3.1 percent could be expected to close as the result of regulation. The employment and shipments losses associated with these facility closures are conservatively estimated at 18,215 FTEs (0.87 percent of total) and $2,350 million (0.52 percent of total), respectively. In addition to the facility closure impacts, another 184 facilities are expected to incur financial stress short of closure because of regulation, again considerably higher than for the other options considered. Compliance costs are also considerably higher for Option 3. EPA estimates that industry will incur capital costs of $1,175 million for complying with Option 3. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $616 million.

Partial-Cost-Pass-Through Analysis

Although impacts are moderated under the more realistic partial-cost-pass-through analysis (in relation to the zero-cost-pass-through analysis), they still remain considerably higher than the impacts estimated for the other options. Among indirect dischargers, 160 facilities or 2.2 percent of facilities passing the baseline analysis are expected to close as a result of regulation and another 66 facilities are expected to incur moderate economic impacts. Employment and shipments losses associated with closing facilities are estimated at 7,710 FTEs and $858 million respectively. Total capital costs of compliance are estimated at $1,195 million and total annualized compliance costs are estimated at $630 million, tax-adjusted.

*iv. Impacts of Option 1a: Tiered PSES for ''Low'' Flow and ''Large'' Flow Sites*

Zero-Cost-Pass-Through Analysis

Under Option 1a, which applies the limitations of Option 1 or Option 2 based on facility discharge volume, EPA estimates that 151 facilities or 2.1 percent could be expected to close as the result of regulation. The employment and shipments losses associated with these facility closures are conservatively estimated at 2,354 FTEs (0.11 percent of total) and $236 million (0.05 percent of total), respectively. All these values are the same as estimated for Option 2. Under Option 1a, 54 facilities are expected to incur financial stress short of closure, a moderate economic impact. EPA estimates that industry will incur capital costs of $437 million for complying with Option 1a, or very slightly greater than for Option 2. However, the estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $209 million, which is about $5 million less than estimated for Option 2.

Partial-Cost-Pass-Through Analysis

The more realistic, partial-cost-pass-through analysis again shows fewer impacts than the zero-cost-pass-through analysis. Among indirect dischargers, 82 facilities or 1.1 percent are expected to close as a result of regulation and only 12 facilities are expected to incur moderate economic impacts. Employment and shipments losses associated with closing facilities are estimated at 1,068 FTEs (0.05 percent of total) and $192 million (0.04 percent of total), respectively. Total capital costs of compliance are estimated at $440 million and total annualized compliance costs are estimated at $210 million, tax-adjusted.

*v. Impacts of Option 2a: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment for ''Large'' Flow Sites*

Zero-Cost-Pass-Through Analysis

Among the five PSES options that EPA analyzed, the proposed Option 2a, which applies the limitations of Option 2 to large flow facilities and exempts low flow facilities from regulation, achieves the lowest impacts in terms of facility closures, employment losses, and financial burdens. Under Option 2a, EPA estimates that a minimal number of facilities—7—would be expected to close as the result of regulation. These 7 facilities represent 0.1 percent of the 7,293 indirect discharge facilities found to pass the baseline closure analysis and 0.4 percent of the 1,792 indirect discharge facilities that both have a discharge volume of at least 1,000,000 gallons per year and pass the baseline closure analysis. The employment and shipments losses associated with these facility closures are conservatively estimated at 540 FTEs (0.03 percent of total) and $134 million (0.03 percent of total), respectively. In addition to the facility closure impacts, 12 facilities are expected to incur financial stress short of closure because of regulation. EPA estimates that industry will incur capital costs of $351 million to comply with Option 2a. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $142 million.

Partial-Cost-Pass-Through Analysis

The estimated impacts of Option 2a under the partial-cost-pass-through case are the same as the already modest values estimated for the zero-cost-pass-through case. The estimated closure and financial impact values remain the lowest among the five PSES options analyzed for indirect discharging facilities.

b. Direct Dischargers

For direct discharging facilities, EPA analyzed the impacts of three possible

BAT/BPT regulatory options—Options 1, 2, and 3—as previously described. Of these options, EPA is proposing Option 2 because, as discussed above, it represents the performance achievable with the best available technology and, in view of its comparatively modest economic impacts, is economically achievable. The estimated facility-level impacts associated with each of the regulatory options are discussed below and presented in Table 7. For direct dischargers, EPA estimated the same level of facility closure and compliance cost impacts under both the zero-cost-pass-through and partial-cost-pass-through analyses. Thus, these results for these two cases are not presented separately. The estimated moderate impacts—that is, financial stress short of closure—did vary between the two cost pass-through cases and these differences are noted in the summary table and accompanying discussion.

*i. Impacts of Option 1: Lime and Settle Treatment*

Of the 1,837 direct discharging facilities subject to regulation, EPA estimates that 18 facilities or 1.0 percent could be expected to close as the result of regulation. The employment and shipments losses associated with these facility closures are estimated at 158 FTEs (0.03 percent of total employment for direct discharging facilities passing the baseline closure analysis) and $6 million (0.01 percent of total shipments for direct discharging facilities passing the baseline closure analysis), respectively. As noted above, the estimates of possible facility closures and associated losses in employment and shipments overstate likely impacts because the analysis does not account for the likelihood that non-closing facilities will absorb some of the lost production and employment from closing facilities. Under the zero-cost-pass-through analysis, an additional 6 facilities are expected to incur financial stress short of closure because of regulation, a moderate economic impact; no facilities are estimated to incur moderate economic impacts under the partial-cost-pass-through case. EPA estimates that industry will incur capital costs of $47 million for complying with Option 1. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected treatment of capital outlays and annual expenses, amounts to $16 million.

TABLE 7.—ESTIMATED IMPACTS OF REGULATORY COMPLIANCE, DIRECT DISCHARGERS

[Dollar values in $000, 1994]

| | Option 1 | Option 2 | Option 3 |
|---|---|---|---|
| Facilities in Analysis | 1,837 | 1,837 | 1,837 |
| **Severe Impacts (closing facilities) Zero-Cost-Pass-Through and Partial-Cost-Pass-Through Analyses (same results)** | | | |
| Number of Facilities | 18 | 18 | 90 |
| Percent of Class | 0.96% | 0.96% | 4.92% |
| Employment (FTEs) | 158 | 158 | 7,339 |
| Value of Shipments | $6,161 | $6,161 | $883,577 |
| **Moderate Impacts (financial stress short of closure)** | | | |
| Zero-Cost-Pass-Through | | | |
| Number of Facilities | 6 | 0 | 0 |
| Partial-Cost-Pass-Through | | | |
| Number of Facilities | 0 | 0 | 0 |
| **Financial Impacts on Complying Facilities Zero-Cost-Pass-Through and Partial-Cost-Pass-Through Analyses (same results)** | | | |
| Capital Cost | $47,363 | $63,269 | $127,369 |
| Total Annual Compliance Cost: | | | |
| Tax-adjusted* | $16,297 | $18,136 | $63,979 |
| No adjustments† | $18,181 | $19,137 | $80,523 |

*''Tax-adjusted'' compliance costs are an estimate of the annual cash compliance cost *to industry* and reflect private costs of capital and expected tax treatment of capital outlays and annual expenses.

† Compliance costs with ''No adjustments'' are an estimate of the total annual cost of compliance without tax adjustments and with capital costs annualized on the basis of a real social discount rate.

*ii. Impacts of Option 2: In-Process Flow Reduction and Pollution Prevention and Lime and Settle Treatment*

Under the proposed Option 2, EPA estimated the same level of facility closures and associated impacts as for Option 1; however, moderate facility impacts are modestly lower and compliance costs are modestly higher. Closing facilities are estimated at 18 facilities or 1.0 percent of direct dischargers passing the baseline analysis. Associated employment and shipments losses are again estimated at 158 FTEs (0.03 percent of total) and $6 million (0.01 percent of total), respectively. In both the zero-cost-pass-through and partial-cost-pass-through analyses, no additional facilities were assessed as likely to incur financial stress short of closure. EPA estimates that industry will incur capital costs of $63 million for complying with Option 2. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $18 million.

*iii. Impacts of Option 3: Advanced End-of-Pipe Treatment*

In a similar way as for indirect dischargers, impacts under Option 3 for direct dischargers are estimated to be markedly higher than those for Options 1 and 2. Under Option 3, EPA estimates that 90 facilities or 4.9 percent of direct

dischargers passing the baseline analysis could be expected to close as the result of regulation. The employment and shipments losses associated with these facility closures are conservatively estimated at 7,339 FTEs (1.24 percent of total) and $884 million (1.26 percent of total), respectively. In both the zero-cost-pass-through and partial-cost-pass-through analyses, no additional facilities were assessed as likely to incur financial stress short of closure, the same result as estimated for Option 2. Compliance costs are estimated to be considerably higher for Option 3 than for Options 1 and 2. EPA estimates that industry will incur capital costs of $127 million for complying with Option 3. The estimated total annualized, after-tax cash cost to industry, which reflects private costs of capital and expected tax treatment of capital outlays and annual expenses, amounts to $64 million.

c. Aggregate Impacts for the Combined Regulatory Proposal for Existing Facilities: Option 2a for Indirect Discharging Facilities and Option 2 for Direct Discharging Facilities

Aggregate impacts for both indirect and direct discharging facilities are summarized in Table 8, below, for the proposed regulatory options applicable to existing facilities: Option 2a for indirect dischargers (PSES) and Option 2 for direct dischargers (BAT/BPT).

Overall, 3,629 facilities passed the Baseline Closure analysis (1,837 direct discharging facilities and 1,792—large flow—indirect discharging facilities) and thus are expected to be subject to regulation. Of this population, 25 facilities or 0.7 percent are expected to close as a result of regulation in both the zero-cost-pass through and partial-cost-pass-through analyses.[7] The total associated employment impact amounts to 698 FTEs (0.03 percent of the total employment in facilities passing the baseline analysis and thus potentially subject to regulation) and the associated value of lost shipments amounts to $140 million (0.03 percent of the total shipments in facilities passing the baseline analysis and thus potentially subject to regulation).[8] In addition to the estimated closure impacts, a modest 12 facilities are expected to encounter financial stress short of closure as a result of the proposed regulation. Summed over both indirect and direct discharging facilities, the total capital costs of compliance amount to $414 million. Total annualized costs of compliance are estimated at $161 million, when calculated on an after-tax basis using private costs of capital.

TABLE 8.—ESTIMATED AGGREGATE IMPACTS OF REGULATORY COMPLIANCE-PROPOSED REGULATORY OPTIONS 2A AND 2 FOR INDIRECT AND DIRECT DISCHARGERS

[Dollar values in $000, 1994]

| | Option 2a (indirect dischargers) | Option 2 (direct dischargers) | Sum for both classes of facilities |
|---|---|---|---|
| Facilities in Analysis | 1,792 | 1,837 | 3,629 |
| **Severe Impacts (closing facilities) Zero-Cost-Pass-Through and Partial-Cost-Pass-Through Analysis** | | | |
| Number of Facilities | 7 | 18 | 25 |
| Percent of Class | 0.39% | 0.96% | 0.69% |
| Employment (FTEs) | 540 | 158 | 698 |
| Value of Shipments | $133,678 | $6,161 | $139,839 |
| **Moderate Impacts (financial stress short of closure)** | | | |
| Number of Facilities | 12 | 0 | 12 |
| Financial Impacts in Complying Facilities: | | | |
| Capital Cost | $350,853 | $63,269 | $414,122 |
| Total Annual Compliance Cost: | | | |
| Tax-adjusted | $142,467 | $18,136 | $160,602 |
| No adjustments† | $171,134 | $19,137 | $190,270 |

*''Tax-adjusted'' compliance costs are an estimate of the annual cash compliance cost to industry and reflect private costs of capital and expected tax treatment of capital outlays and annual expenses.

†Compliance costs with ''No adjustments'' are an estimate of the total annual cost of compliance without tax adjustments and with capital costs annualized on the basis of a real social discount rate.

*F. Labor Requirements and Possible Employment Benefits of Regulatory Compliance*

Firms will need to install and operate compliance systems to comply with an effluent limitations guideline for the MP&M industry. The manufacture, installation, and operation of these systems will require use of labor resources. To the extent that these labor needs translate into employment increases in affected firms, a MP&M rule has the potential to generate employment benefits. If realized, these employment benefits may partially offset the employment losses that are expected to occur in facilities impacted by the rule. The employment effects that would occur in the manufacture, installation, and operation of treatment systems are termed the ''direct'' employment benefits of the rule. Because these employment effects are directly attributable to the MP&M rule, they are conceptually parallel to the employment losses that were estimated for the facilities that are expected to incur significant impacts as a result of the MP&M rule.

In addition to direct employment benefits, the MP&M rule may generate other employment benefits through two mechanisms. First, employment effects

[7] The impact analysis results for Option 2a/2 are the same throughout for both the zero-cost-pass-through and partial-cost-pass-through cases.

[8] An analysis of possible employment increases that may partially offset these losses is presented in the next section.

may occur in the industries that are linked to the industries that manufacture and install compliance equipment; these effects are termed ''indirect'' employment benefits. For example, a firm that manufactures the pumps, piping and other hardware that comprise a treatment system will purchase intermediate goods and services from other firms and sectors of the economy. Thus, increased economic activity in the firm that manufacturers the treatment system components has the potential to increase activity and employment in these linked firms and sectors. Second, the increased payments to labor in the directly and indirectly affected industries will lead to increased purchases from consumer-oriented service and retail businesses, which in turn lead to additional labor demand and employment benefits in those businesses. These effects are termed ''induced'' employment benefits.

In view of these possible employment benefits, EPA estimated the labor requirements associated with compliance with the proposed MP&M Phase I regulatory option: Option 2a for indirect dischargers and Option 2 for direct dischargers. Labor requirements—and thus the possible employment benefits— were estimated in two steps. EPA first estimated the direct employment effects associated with the manufacture, installation, and operation of compliance equipment. Second, EPA considered the additional employment effects that might occur through the indirect and induced effect mechanisms outlined above.

1. Direct Labor Requirements of Complying With the Proposed Regulation

EPA separately analyzed each component of the direct labor requirements: manufacturing, installing, and operating compliance equipment. The analysis is based on the compliance cost estimates developed for the economic impact analysis of the MP&M regulation. Compliance requirements and associated costs were estimated for each facility in the Survey that was assessed as incurring costs. For the labor requirements analysis, compliance costs and their associated labor requirements were considered only for those facilities that were not assessed as a baseline or compliance related closure. That is, the analysis considered the labor requirement effects associated only with those facilities that, upon compliance with the rule, would be likely to continue MP&M production activities.

EPA estimated the direct labor requirements for manufacturing and installing compliance equipment based on the cost of the equipment and its installation, and labor's expected share of cost in manufacturing and installing the equipment. The labor input was estimated in dollars based on information contained in the National Input-Output Tables assembled by the Bureau of Economic Analysis in the Department of Commerce. In particular, the direct requirements matrix identifies the value of each input, including labor, that is required to produce a one dollar value of output for a subject industry. The industries in the input-output tables that were used as the basis for this analysis are: the Heating, Plumbing, and Fabricated Structural Metal Products Industry (Bureau of Economic Analysis industry classification 40) for compliance equipment manufacturing; and the Repair and Maintenance Construction Industry (Bureau of Economic Analysis industry classification 12) for compliance equipment installation. The dollar value of labor's contribution was converted to a full-time employment equivalent based on a yearly labor cost of $56,244 in 1994 dollars (including benefits and payroll taxes). Because compliance equipment purchase and installation are considered one-time outlays, the labor requirements for these activities were annualized over a 15-year period at the seven percent social discount rate.

For the analysis of the labor required to operate compliance equipment, EPA used the estimates of annual labor hours that were developed as the basis for assessing the annual operating and maintenance costs of the MP&M regulatory options.

From these analyses, EPA estimated an annual direct labor requirement of 1,594 full-time equivalent positions (FTEs) for complying with the combined regulatory proposal for existing facilities: Option 2a for indirect dischargers and Option 2 for direct dischargers (Option 2a/2). Of this total, the annualized labor requirements for manufacturing and installing compliance equipment are 187 and 85 FTEs, respectively. Compliance equipment operation is estimated to require 1,322 FTEs annually. The corresponding annual estimated payments to labor is $89,664,000 (1994 dollars) (see Table 9).

TABLE 9.—ANALYSIS OF POSSIBLE EMPLOYMENT GENERATION EFFECTS OF PROPOSED REGULATORY OPTIONS FOR THE MP&M INDUSTRY

[All dollar amounts in thousands of 1994 dollars]

| | Total weighted expenditures | Labor cost share of production value [1] | Labor cost component | | Direct labor requirements [3] | |
|---|---|---|---|---|---|---|
| | | | One-time basis | Annual basis [2] | One-time basis | Annual basis |
| **Option 2a for Indirect Dischargers and Option 2 for Direct Dischargers** | | | | | | |
| Direct Labor Effects From Compliance Equipment: | | | | | | |
| Manufacturing | $308,981 | 31.02% | $95,833 | $10,522 | 1,704 | 187 |
| Installation | $102,994 | 42.23% | $43,497 | $4,776 | 773 | 85 |
| Operation | ..... | ..... | ..... | $74,367 | ..... | 1,322 |
| Total Direct Labor Effects | ..... | ..... | ..... | $89,664 | ..... | 1,594 |

[1] Source: U.S. Department of Commerce, *The 1982 Benchmark Input-Output Accounts of the United States,* December 1991. The labor cost share of production value for compliance equipment manufacturing is based on the input-output composition of the Heating, Plumbing, and Fabricated Structural Metal Products Industry (Bureau of Economic Analysis industry classification 40). The labor share of production value for compliance equipment installation is based on information for the Repair and Maintenance Construction Industry (Bureau of Economic Analysis industry classification 12).

[2] Annualized over 15 years at the social discount rate of 7 percent.

[3] Number of jobs calculated on the basis of an average hourly labor cost of $24.00 ($1989) and 2,000 hours per labor-year. The annual labor cost of $48,000 ($1989) was brought forward as $56,244 for 1994.

2. Indirect and Induced Labor Requirements of Complying With the MP&M Rule

In addition to its direct labor effects, an MP&M effluent guideline may also generate labor requirements through the indirect and induced effect mechanisms described above. EPA assessed the indirect and induced employment effects of the proposed regulatory options by use of multipliers that relate aggregate economic effects, including indirect and induced effects, to direct economic effects. Using a range of multipliers from previous studies of the aggregate employment effects of general water treatment and pollution control expenditures, EPA estimated that the total labor requirement effect would range from 3,900 to 6,400 FTEs for the proposed Option 2a/2 . The lower end of this range reflects the use of lower multiplier values and conservative assumptions regarding effects on economic activity in industries linked to the MP&M industry. The higher end of the range reflects the higher multiplier values and assumes full incurrence of indirect economic effects in industries linked to the MP&M industry.

*G. Community Impacts*

EPA expects that the employment losses resulting from MP&M facility closures will not have a significant impact on the national economy. However, employment losses may be significant at the local level if facility closures are concentrated regionally or if they occur in smaller communities. Therefore, EPA examined the community level employment impacts that may result from the proposed regulatory options for the MP&M industry. Community impacts were assessed by estimating the expected change in employment in communities with MP&M facilities that are affected by regulation. Possible community employment effects include the lost employment in facilities that are expected to close because of regulation, and related employment losses in other businesses in the affected community. These employment losses are considered significant if they are expected to exceed one percent of the pre-regulation level of employment in the affected communities. For such comparisons, a community is generally defined as the area in which employees may reasonably commute to work—typically a Metropolitan Statistical Area (MSA), or county if the affected community is not contained within a MSA.

To understand the significance of community employment impacts from the proposed regulation, Option 2a/2, EPA performed two analyses of expected community employment impacts. First, EPA examined the community employment impacts based on the known location of the sample facility closures estimated to result from each of the proposed regulatory options. Because the location of these sample facilities is known, it is possible to compare the expected employment loss from closure, including losses in related businesses, with the pre-regulation employment in the affected community, defined as either the MSA or the county in which the sample facility closure is located. This analysis directly tests the significance of employment losses in the communities in which the estimated closing sample facilities are located.

Second, EPA examined the significance of expected facility closures taking into account the employment losses from the closing facilities in the underlying facility population that are represented by the sample facility closures. Because the locations of these non-sample closing facilities are not known, it was not possible to measure the significance of the associated employment losses in specific communities. Instead, EPA distributed these employment losses among states and assessed their significance at the state level, taking into account the estimated job losses in both MP&M facilities and in related businesses.

In addition to these analyses of the impact of employment losses, EPA also considered the effect of possible employment gains as discussed in the preceding section at the state level. Specifically, EPA distributed the possible employment gains among states and calculated a net potential employment impact by state taking into account the expected effect of both facility closures and labor demands from compliance-related outlays.

1. Assessment of Community Impacts for Estimated Sample Facility Closures

To assess the significance of facility closures and associated employment losses in specific communities, EPA compared the employment loss from estimated sample facility closures, including losses in related businesses, to the pre-regulation level of employment in the communities in which the sample facilities are located.

For the proposed Option 2a/2 (Option 2a for indirect dischargers and Option 2 for direct dischargers), the facility closure analysis indicated that three sample facilities would be expected to close as a result of regulation. Two of the three sample facilities are located in California: 1 in Merced County, 1 in the Los Angeles-Long Beach MSA. The third facility is located in Virginia, in the Norfolk-Virginia Beach-Newport News MSA. The total of employment losses in these sample facilities amounts to 168 FTEs, or an average of 56 FTEs per closing sample facility (see Table 10).

TABLE 10.—COMMUNITY EMPLOYMENT IMPACTS IN ESTIMATED SAMPLE CLOSING FACILITIES

| MSA or county | Pre-regulation employment | Facilities affected | | MP&M state multiplier | Total employment loss in MSA | |
|---|---|---|---|---|---|---|
| | | Number | Empl. (FTEs) | | FTEs | As % of pre-regulation employment |
| Los Angeles-Long Beach | 4,173,000 | 1 | 97 | 2.72 | 264 | 0.01% |
| Merced County | 64,617 | 1 | 62 | 2.72 | 169 | 0.26% |
| Norfolk-Virginia Beach-Newport News | 594,463 | 1 | 9 | 2.27 | 20 | 0.00% |

Source: U.S. Environmental Protection Agency.

In addition to the primary employment losses (i.e., those that occur in the estimated MP&M facility closures), employment losses may also occur through the secondary impact mechanism. Such secondary employment losses may occur in: (1) Industries that are economically linked to MP&M industries and (2) consumer businesses whose employment is affected by changes in the earnings and expenditures of the employees in the directly and indirectly affected industries. To assess these secondary employment losses, EPA calculated

state-specific, composite MP&M employment multipliers that are based on the estimated relationship of employment in MP&M industry sectors to total state employment, and the composition of employment within a state among the seven MP&M Phase I sectors. These state-specific composite employment multipliers were calculated from Regional Input-Output Modeling System (RIMS) multipliers developed by the Bureau of Economic Analysis (BEA) within the Department of Commerce.

To calculate the expected total employment loss (i.e., considering both primary and secondary employment impacts) in the communities in which estimated sample facility closures are located, EPA multiplied the employment loss in the estimated sample facility closures by the composite multiplier for the particular state. The total losses by MSA ranged from 20 to 264 FTEs. To assess the significance of these losses, EPA compared the estimated total employment loss with the pre-regulation employment in the community, based on 1990 Census data. For the two facilities that are located in an MSA, the pre-regulation employment is the 1990 employment for the MSA. For the facility that is not located within a MSA, the pre-regulation employment is the 1990 civilian employment for the county in which the facility is located. This comparison indicated that none of the estimated sample facility closures would be expected to have a significant impact on total community employment. The largest of the percentage impacts is estimated for Merced County, California and amounts to 0.26 percent. The estimated impact in the Los Angeles-Long Beach MSA amounts to only 0.01 percent, while the impact in the Norfolk-Virginia Beach-Newport News MSA rounds to zero when calculated to the nearest hundredth of a percent (see Table 10).

2. Assessment of State-Level Employment Impacts

To capture the effect of employment losses in the non-sample facilities that are represented by the estimated sample facility closures, EPA performed a second analysis in which the employment loss in these non-sample facilities was distributed among states in proportion to pre-regulation levels of MP&M industry employment. Because the community locations of these non-sample, represented facilities is not known, it is not possible to analyze the impact of these employment losses in specific communities as defined by MSAs or counties.

In addition to the 168 FTE losses in the 3 sample facility closures, EPA estimated that another 530 FTE employment losses and 22 facility closures would occur in the underlying population that is represented by the sample facilities. EPA distributed these losses among states in proportion to each state's estimated MP&M Phase I sector employment as calculated from Department of Commerce employment data. To estimate the total employment loss by state (i.e., both primary and secondary losses), EPA multiplied the primary losses for each state by the state's composite employment impact multiplier as developed from BEA state- and industry-specific multipliers. The estimated loss by state averaged 36 FTEs and ranged from a low of zero to a high of 621; 32 states and the District of Columbia had a total estimated loss of less than 25 FTEs. Table 11 summarizes the estimated facility closures and associated primary and total employment losses for the 9 states in which the total employment loss is estimated to exceed 50 FTEs. To evaluate the significance of the estimated total employment loss by state, EPA compared the employment loss values with estimated total civilian employment for each state, as reported by the Department of Commerce for 1991.

From these calculations, the estimated total employment loss as a percent of total state employment rounds to zero when calculated to the nearest hundredth of a percent for all 50 states and the District of Columbia. The maximum estimated employment loss as a percentage of total state employment amounts to less than one-half of one-hundredth of one percent of total state employment (Table 12 lists the estimated employment loss results for the 10 states with the highest percentage impacts). Thus, on the basis of the findings from this and the preceding analysis, EPA expects that the proposed regulation for the MP&M industry will not cause significant employment impacts at the local level.

TABLE 11.—ESTIMATED FACILITY CLOSURES AND TOTAL EMPLOYMENT LOSSES FOR STATES WITH LARGEST TOTAL LOSS

| State | Estimated total facility closures | Employment losses in facilities (FTEs) | Total employment loss (FTEs) |
|---|---|---|---|
| California | 4.9 | 228 | 621 |
| Ohio | 1.6 | 38 | 116 |
| Illinois | 1.6 | 38 | 116 |
| Pennsylvania | 1.3 | 31 | 89 |
| Texas | 1.3 | 32 | 89 |
| Michigan | 1.1 | 27 | 74 |
| New York | 1.2 | 30 | 64 |
| Wisconsin | 0.8 | 20 | 53 |
| Indiana | 0.7 | 17 | 52 |

Loss in all other states is less than 50 FTEs.
Source: U.S. Environmental Protection Agency.

TABLE 12.—TOTAL EMPLOYMENT LOSS BY STATE, 10 STATES WITH HIGHEST PERCENTAGE LOSS

| State | Estimated total facility closures | Employment loss in facilities (FTEs) | Total employment loss (FTEs) | Total state employment (1990) | Loss as a percent of total |
|---|---|---|---|---|---|
| California | 4.9 | 228 | 621 | 13,714,000 | 0.005% |
| Ohio | 1.6 | 38 | 116 | 5,094,000 | 0.002% |
| Wisconsin | 0.8 | 20 | 53 | 2,453,000 | 0.002% |
| Connecticut | 0.6 | 15 | 35 | 1,679,000 | 0.002% |
| Illinois | 1.6 | 38 | 116 | 5,598,000 | 0.002% |

TABLE 12.—TOTAL EMPLOYMENT LOSS BY STATE, 10 STATES WITH HIGHEST PERCENTAGE LOSS—Continued

| State | Estimated total facility closures | Employment loss in facilities (FTEs) | Total employment loss (FTEs) | Total state employment (1990) | Loss as a percent of total |
|---|---|---|---|---|---|
| Indiana | 0.7 | 17 | 52 | 2,632,000 | 0.002% |
| Michigan | 1.1 | 27 | 74 | 4,125,000 | 0.002% |
| Pennsylvania | 1.3 | 31 | 89 | 5,524,000 | 0.002% |
| Massachusetts | 0.7 | 17 | 45 | 2,847,000 | 0.002% |
| New Hampshire | 0.1 | 3 | 9 | 589,000 | 0.001% |

Total percentage employment loss for all states rounds to zero at the nearest hundredth of a percent.
Source: U.S. Environmental Protection Agency.

3. Assessment of State-Level Employment Impacts Including Possible Employment Gains

As a final part of the analysis of community level employment impacts, EPA considered total state-level employment effects taking into account possible employment gains. Possible labor gains, as discussed in the previous section, were distributed by state in proportion to MP&M employment by state, and state-level employment multipliers were applied to these gains to estimate the total potential state-level employment gain. The multipliers used for this analysis were selected to correspond to the industries in which primary labor effects are expected to occur. These values were subtracted from the total employment loss values calculated in the preceding section to calculate a net employment loss by state, taking into account the possible employment gains from compliance-related activities.

The estimated employment gain values range from a low of zero for the District of Columbia, which has a very low estimated employment in MP&M industry activity, to a high of 552 for California, the state with the largest estimated MP&M industry employment. The average possible gain by state amounted to 81 FTEs. These values were subtracted from the estimated total loss values calculated in the preceding section to yield an estimated net employment loss by state for the proposed regulation. For all states but California, which has an estimated net employment loss of 69 FTEs, the estimated potential gain exceeds the estimated loss from facility closures (Table 13 summarizes these values for the 10 states with the highest estimated loss from facility closures). Thus, the potential employment gains associated with compliance activities could substantially offset the local employment losses expected to result from facility closures.

TABLE 13.—EMPLOYMENT LOSS AND POSSIBLE GAIN BY STATE, 10 STATES WITH HIGHEST ESTIMATED LOSS FROM FACILITY CLOSURES

| State | Total loss from facility closures | Employment gain, primary impact only | Total gain with multiplier | Net employment loss |
|---|---|---|---|---|
| California | 621 | 209 | 552 | 69 |
| Ohio | 116 | 115 | 345 | (229) |
| Illinois | 116 | 113 | 344 | (228) |
| Pennsylvania | 89 | 93 | 265 | (176) |
| Texas | 89 | 97 | 261 | (171) |
| Michigan | 74 | 82 | 222 | (148) |
| New York | 64 | 90 | 187 | (124) |
| Wisconsin | 53 | 59 | 155 | (102) |
| Indiana | 52 | 51 | 153 | (101) |
| Massachusetts | 45 | 52 | 130 | (86) |

Source: U.S. Environmental Protection Agency.

*H. Impacts on Firms Owning MP&M Facilities*

The assessment of economic achievability of the MP&M regulation is based primarily on the facility-level impact analysis. However, because the impacts at the level of the firm may exceed those assessed at the level of the facility, particularly when a firm owns more than one facility that will be subject to regulation, EPA also conducted a firm-level impact analysis for the MP&M regulation. The firm-level analysis estimates the impact of regulatory compliance on firms owning facilities subject to MP&M effluent guidelines.

Secondary financial sources and DCP responses provided income statement and balance sheet data for 255 firms that own 290 of the 396 sampled facilities. Sufficient data were not available to analyze compliance impacts on the parent firms of the remaining 106 facilities.

EPA conducted the firm-level impact analysis under the zero-cost-pass-through scenario. Because the DCP sample was not designed as a random sample of firms, but was instead directed toward estimating national characteristics of facilities, the DCP sample data used in this analysis is not sample weighted. The findings apply only to the firms that own sample facilities and do not represent national estimates of firm-level impacts.

EPA assessed firm-level impacts on the basis of changes in measures of profitability and interest coverage, as calculated from firm financial statements. These measures, Pre-Tax Return on Assets (ROA) and Interest Coverage Ratio (ICR), are the same as those used in the facility-level Analysis of Financial Stress Short of Closure. When applied at the level of the firm, these measures indicate the firm's ability to attract the capital needed for expansion in the normal course of business or for pollution control

investments associated with effluent guidelines compliance. EPA used the same thresholds of minimum financial performance for these two measures in the facility-level Financial Stress Short of Closure analysis. These thresholds are based on a weighted average of the first quartile values for ROA and ICR for the relevant MP&M industries as reported in the Robert Morris Associates publication *Annual Statement Studies.*

In the same way as for the facility closure analysis, EPA performed the firm-level analysis in two steps: (1) a baseline analysis, which evaluates the firm's financial condition independent of the costs of regulatory compliance; and (2) a post-compliance analysis, which accounts for the effects of compliance costs on the firm-level financial measures. In the baseline analysis, firms whose ROA or ICR were below the industry standards were considered financially weak independent of regulation and were eliminated from further analysis. Firms that pass both of the thresholds were subjected to a post-compliance test, in which their financial measures were changed to reflect the impact of the MP&M effluent guideline. Firms that failed either threshold post-compliance but pass both pre-compliance are expected to incur significant financial stress as a result of compliance with the regulation.

The firms consist of both single and multiple facility firms. In the case of single facility firms, the impact on each firm's ROA and ICR is identical to the impact calculated on the basis of the responding facility's financial statements and estimated compliance costs, alone. The impacts for single facility firms correspond to those calculated in the facility level analysis.

Analysis of firm impacts for multiple facility firms, however, involves aggregating and extrapolating financial and compliance cost data for sample facilities to the level of the firm. If all of a firm's revenues come from activities subject to the MP&M regulation, the impact of regulation on that firm will clearly be greater than the impact on a firm that participates minimally in activities subject to the MP&M regulation, all other things being equal. Similarly, a firm whose production is heavily concentrated in foreign facilities would also experience less significant impacts than firms primarily producing in the U.S. (i.e., with more facilities subject to the MP&M effluent guideline).

The analysis of firm-level impacts for multiple facility firms is made difficult because compliance-related information is available only for the sample facilities owned by these firms. That is, information is not available for the non-sample facilities owned by a firm in terms of whether or not those facilities would be subject to the MP&M regulation and, if so, the costs that they would incur to achieve compliance with the proposed regulation. Lacking this information, the firm-level analysis estimated impacts based on two scenarios that cover the full range of possible regulatory applicability to the non-sample facilities owned by a firm. The first scenario is based on the minimum applicability of the regulation and assumes that the sampled facilities are the only facilities that engage in activities subject to regulation in a firm. In this scenario, the firm level impact of the regulation is calculated by adjusting the firm-level financial measures for the compliance costs incurred by the firm's sampled facility(ies).

The second scenario is based on the maximum applicability of the regulation and assumes that all of a firm's activities are subject to regulation, whether associated with a sampled facility or not. In this scenario, EPA calculated a firm-level impact by extrapolating the estimated costs of compliance for the firm's sample facility(ies) to the level of the firm assuming that all of the firm's revenues are subject to regulation. Specifically, the compliance costs for the sample facility (or the sum of costs over facilities, for those firms owning more than one sample facility) were scaled upward by the ratio of firm revenue to the sum of sampled facility revenues. This method presumes a uniform relationship between compliance costs and revenue over all the facilities owned by a firm. EPA then used these estimated firm-level compliance costs under the scenario in which all revenue is subject to regulation to adjust the pre-compliance measures of financial performance.

Of the 255 firms analyzed, 73 firms, or slightly less than 29 percent, failed one or both of the firm financial tests pre-compliance and therefore failed the baseline firm-level impact analysis. These firms are assessed as being financially weak based on current circumstances and independent of the effects of the MP&M regulation. Of these 73 firms, 39 own facilities that were projected to close under the facility-level baseline closure test.

Of the 182 firms that pass the baseline firm financial test, only one failed either test under Option 2a/2, even under the conservative zero-cost-pass-through assumption (see Table 14). The single adversely affected firm is a single facility firm and accounts for less than 0.0001 percent of revenues earned by all 255 sampled firms in the firm-level impact analysis. These results are independent of the assumptions about the share of firm revenue subject to regulation. The minimum and maximum impact scenarios yielded identical results, in terms of financial test failures. From this analysis, EPA finds that firm-level impacts are not likely to be significant.

TABLE 14.—SUMMARY OF FIRM IMPACT ANALYSIS RESULTS

| | |
|---|---|
| Number of Firms in Analysis | 255 |
| Baseline Failures | 73 |
| Incremental Post-Compliance Failures | 1 |

Source: U.S. Environmental Protection Agency.

*I. Foreign Trade Impacts*

Products of the MP&M industry are traded internationally. Therefore, changes in domestic production resulting from effluent regulations may affect the balance of trade. In particular, some of the production from facilities estimated to close because of regulation may be replaced by foreign producers, thus changing the U.S. foreign trade balance. The foreign trade analysis examines the trade balance effects of Option 2a/2 under the zero-cost-pass-through assumption. This assumption is conservative in the sense that it projects the most post-compliance closures. Even under this assumption, EPA estimates that the MP&M industry will experience less than a 0.01 percent loss in its trade balance. Therefore, EPA finds that the proposed effluent guidelines will not have a significant adverse impact on the international trade status of the MP&M Phase I industry.

The foreign trade impact analysis identifies three scenarios that span the likely range of foreign trade responses to post-compliance closures. Each scenario describes a possible outcome of the competition between domestic and foreign producers to replace the production loss from closure of domestic facilities. The three scenarios are as follows:

1. Worst case. In the worst case scenario, all production for domestic consumption and for export by domestic facilities subject to post-compliance closure is replaced by foreign sources. Therefore, the net trade balance deteriorates by the total amount of production lost by post-compliance incremental closures.

2. Best case. In the best case scenario, all production for domestic consumption and for export by facilities subject to closure are replaced in full by production and exports from other

domestic facilities. The net trade balance is unaffected by regulation.

3. Proportional case. Domestic production of facilities subject to closure is replaced both by remaining domestic facilities and by foreign imports in the same proportions as the baseline ratio of imports and exports to the total domestic market. In this scenario, if, in the baseline case, imports accounted for half of the domestic market, then a closing facility's production for domestic sales would be replaced half by imports and half by other domestic producers. This scenario is meant to reflect the historical performance of the MP&M Phase I industries in competing with foreign producers for import and domestic markets.

In the foreign trade impact analysis, EPA assigned each sample facility that is expected to close—and its associated revenue—to one of the three scenarios, depending on the findings from two assessments of the facility's exposure to competition from foreign producers. The first assessment is based on sample facilities' responses to DCP questions concerning the magnitude and source of competition in various markets, including export and domestic markets. The second assessment is based on secondary source data provided by the Department of Commerce and used in the industry profile. This assessment considers the overall competitiveness of the MP&M industries in import and export markets, with respect to foreign competitors.

On the basis of the two assessments, facilities with significant exposure to foreign competition were assigned to the worst case trade impact scenario while facilities with little expected exposure to foreign competition were assigned to the best case trade impact scenario. Facilities with moderate exposure to foreign competition were assigned to the proportional case trade impact scenario.

After assigning each sample facility closure to a trade impact scenario, EPA allocated the export and import market revenues from estimated facility closures between foreign and domestic producers according to the rules for the three trade scenarios. The changes in exports and imports accruing from all incrementally closing facilities were multiplied by their sample weights and summed to yield an estimate of the aggregate impact on imports, exports and the trade balance resulting from promulgation of the effluent guideline.

Table 15 presents the results from the foreign trade impact analysis. As shown in the table, even under the conservative zero-cost-pass-through assumption, the proposed effluent guideline will have a negligible impact on U.S. imports, exports and the trade balance.

On the basis of sample-weighted national estimates, EPA estimates that exports will not be measurably affected by compliance with the proposed regulation, while imports are estimated to increase by approximately $5.3 million, or 0.01 percent of the 1991 imports of the MP&M Phase I industry commodities, according to Department of Commerce data. The net effect on the trade balance is therefore a decline of $5.3 million, or approximately 0.01 percent of the current trade balance in MP&M Phase I industry commodities.

TABLE 15.—MP&M PHASE I EFFLUENT GUIDELINE IMPACTS ON FOREIGN TRADE

[Sample Weighted National Estimates for Option 2a/2 ($ millions)]

| | Exports | Imports | Trade balance |
|---|---|---|---|
| Baseline | 112,565.1 | 72,157.1 | 40,408.0 |
| Post-Compliance Change | 0.0 | 5.3 | −5.3 |
| Percent Change From Baseline | 0.00% | 0.01% | −0.01% |

Source: U.S. Environmental Protection Agency and Department of Commerce.

*J. Impacts of New Source Performance Standards and Pre-Treatment Standards for New Sources*

The proposed regulation includes limitations that will apply to new direct and indirect discharging sources within the MP&M Phase I category. EPA examined the impact of these regulations for new dischargers to determine if they would impose an undue economic and financial burden on new sources seeking to enter the MP&M Phase I industry.

As documented in Part 438.16–17 and Section XIII, EPA proposes to set New Source Performance Standards (NSPS), which apply to new facilities that discharge directly to receiving waters, on the basis of the Best Achievable Technology (BAT) limitations as specified by the proposed Option 2 for existing direct dischargers. Thus, the new source limitations for direct dischargers are the same as those proposed for existing direct discharge facilities.

In addition, EPA proposes to set Pretreatment Standards for New Sources (PSNS), which apply to new indirect discharging facilities (i.e., that will discharge to POTWs), on the basis of the discharge limitations in PSES Option 2, as analyzed for existing indirect discharging facilities. Thus, the new source limitations for indirect discharging facilities will differ from the PSES limitations proposed for existing indirect discharge facilities. Specifically, the proposed PSES option for existing indirect discharge facilities, Option 2a, applies the mass-based limitations of Option 2 to large flow indirect discharge facilities (i.e., facilities discharging at least 1,000,000 gallons per year) but applies no limitations to low flow indirect discharge facilities (i.e., facilities discharging less than 1,000,000 gallons per year). However, for new indirect dischargers, the proposed PSNS limitations will apply the mass-based limitations of Option 2 regardless of the new facility's discharge volume.

In general, EPA estimates that, when new and existing sources face the same discharge limitations, new sources will be able to comply with those limitations at the same or lower costs than those incurred by existing sources. Engineering analysis indicates that the cost of installing pollution control systems during new construction is generally less than the cost of retrofitting existing facilities. Thus, a finding that discharge limitations are economically achievable by existing facilities will also mean that those same discharge limitations will be economically achievable to new facilities.

On the basis of this argument alone, EPA concludes that those elements of the effluent limitations that are the same for both new and existing facilities will be economically achievable. In fact, the new source and existing source limitations are identical except for the limitations applicable to new indirect discharging sources with a discharge volume of less than 1,000,000 gallons per year. As stated above, these new

sources must meet the mass-based limitations of PSES Option 2, while existing, low flow indirect discharging facilities would not be subject to effluent limitations under the proposed guideline. Therefore, the only issue concerning economic achievability of the new source limitations involves the application of the PSES Option 2 limitation to new indirect discharging sources with a discharge volume of less than 1,000,000 gallons per year.

However, in its analysis of regulatory impacts on existing facilities, EPA found that the mass-based limitations of PSES Option 2 would be economically achievable by indirect discharging facilities regardless of discharge volume. For this reason, EPA additionally concludes that the new source limitations applicable to new indirect discharging facilities will also be economically achievable by indirect discharging facilities with flow of less than 1,000,000 gallons per year. Therefore, EPA finds that the proposed NSPS and PSNS limitations will be economically achievable.

EPA notes that an important reason for exempting the low flow class of existing indirect dischargers (less than 1,000,000 gallons per year) from regulatory requirements is to reduce the administrative burden to permit writers that would result from writing mass-based permits for the large number of existing low flow indirect dischargers. EPA estimates that approximately 63 percent of the existing facilities to which the regulation could have applied are low flow indirect dischargers. However, applying the mass-based concentration requirements of Option 2 to new facilities will not impose so great an administrative burden, because new facilities enter gradually over time.

*K. Regulatory Flexibility Analysis*

In accordance with the requirements of the Regulatory Flexibility Act (Public Law 96-354), the Agency performed a Regulatory Flexibility Analysis of the proposed regulation. The purpose of the Regulatory Flexibility Act is to ensure that, while achieving statutory goals, government regulations do not impose disproportionate impacts on small entities. The Regulatory Flexibility Analysis for the proposed regulation is contained in Chapter 10 of the Economic Impact Analysis report referenced above, ''Economic Impact Analysis Of Proposed Effluent Limitations Guidelines And Standards For The Metal Products And Machinery Industry, Phase I.'' On the basis of the Regulatory Flexibility Analysis and as summarized herein, the Administrator certifies, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed regulation will not have a significant economic impact on a substantial number of small entities.

In developing the proposed regulation, EPA sought from the outset to define a regulation that would not unreasonably burden small entities. In particular, EPA considered a number of regulatory alternatives for indirect and direct dischargers, each of which was assessed to have varying degrees of impact on small entities. In selecting the proposed regulation from among these alternatives, EPA balanced several factors, including: the need for additional reduction in effluent discharges from the MP&M industry; the fact that the MP&M industry is largely comprised of small business entities; and the need to achieve additional reduction in effluent discharges without imposing unreasonable burdens on small entities. As a result of these considerations, EPA expressly framed the proposed regulation to reduce impacts on small entities.

Specifically, as discussed in Section XIV. C., above, EPA settled on the proposed regulation for indirect dischargers, Option 2a, after considering and rejecting the initial Option 2. On the basis of the facility impact analyses presented above, EPA determined that Option 2 would be economically achievable by indirect discharging facilities. In accordance with this finding, EPA initially considered adopting the mass-based requirements of Option 2 for all indirect discharging facilities. However, further analysis indicated that Option 2 would place substantial financial burdens on smaller facilities and, moreover, would substantially burden permitting authorities by requiring that mass-based standards be written for all indirect discharging facilities, regardless of size and amount of discharge reduction to be achieved. For these reasons, EPA defined and evaluated two additional options: Option 1a, which applies the Option 2 requirements to large flow facilities and the modestly less stringent Option 1 requirements to low flow facilities; and Option 2a, which applies the requirements of Option 2 to large flow facilities while exempting low flow indirect discharging facilities from regulation. EPA found that both of these additional options would mitigate the burden of regulation on small businesses and permitting authorities. However, EPA found that the latter option, Option 2a, much more substantially reduced the closure impacts and financial burdens among MP&M facilities owned by small business and, as well, the regulatory implementation burden on permitting authorities. After considering other factors that also favored Option 2a—namely, cost effectiveness—EPA decided to propose Option 2a as the PSES option for indirect discharging facilities.

The following sections summarize the analyses underlying the Agency's conclusion that the proposed regulation will not have a significant economic impact on a substantial number of small entities

1. Small Business in the MP&M Industry

EPA analyzed the role of small entities in the MP&M industry and the associated impacts that would be caused by the proposed regulation. These analyses showed that the MP&M industry is largely comprised of small business entities and, accordingly, the regulation is expected to apply to a substantial number of small entities. Specifically, on the basis of Small Business Administration (SBA) firm-employment size criteria, EPA estimates that over 75 percent of the estimated 10,601 water discharging facilities in the MP&M Phase I industries are owned by a small business. With over 75 percent of the facilities to which the regulation is expected to apply defined as small businesses, EPA also examined the employment size distribution of the MP&M facilities to gain provide additional insight into how smaller facilities are likely to be affected by the proposed regulation. From the analysis of the facility employment distribution, EPA estimated that 25 percent of water-discharging facilities have 9 or fewer employees and that 50 percent of water-discharging facilities have 79 or fewer employees.

EPA also found that small facilities play a substantial role in the economic performance and contributions of the MP&M industry. From Department of Commerce data for 1989, EPA estimates that over 97 percent of facilities in the MP&M Phase I industries (including both water-discharging and non-discharging facilities) have fewer than 250 employees. These relatively small facilities account for about 49 percent of total MP&M industry employment, 40 percent of total shipments, and 40 percent of the MP&M industry's tribution to gross domestic product.

2. Impacts of the Proposed Regulation on Small Business

To gauge whether the proposed regulation would have a significant impact on a substantial number of small entities, EPA considered the level of impacts and compliance costs expected

to be imposed on small entities. From these analyses, EPA found that the proposed regulation will impose significant economic impacts (i.e., facility closures) more frequently among small business entities than among MP&M facilities generally. In addition, these analyses indicated that the compliance cost burden (as measured by total annual compliance costs as a percent of facility revenue) is expected to be greater among small business entities than among MP&M facilities generally. However, for both of these measures of small business impact—frequency of facility closures and compliance cost burden—EPA found that the absolute levels of impacts were so slight as to not constitute a significant economic impact on small entities. Moreover, the impact levels under the proposed regulation are much lower than those that would be expected under any of the other options that EPA considered for proposal.

a. Facility Closure Impacts by Business Size

Table 16 summarizes the findings from the facility closure analysis according to business size classification. The first three columns—Option 1, Option 2, and Option 3—combine the results for indirect and direct dischargers for each of those options. The latter two columns reflect the additional options that were developed for indirect dischargers—Option 1a and Option 2a—combined with Option 2 for direct dischargers. Specifically, the rightmost column, which is labeled Option 2a/2, combines results for Option 2a for indirect dischargers and Option 2 for direct dischargers and thus represents the proposed regulatory option. The next column to the left, which is labeled Option 1a/2, combines results for Option 1a for indirect dischargers and Option 2 for direct dischargers and represents the other option that EPA defined as an alternative to the initially selected Option 2 for indirect and direct dischargers.

As shown in the table, all estimated facility closures for Options 1, 2, 1a/2, and 2a/2 occur among small business-owned facilities, as defined on the basis of SBA criteria. Only under Option 3 are closures estimated to occur among facilities not owned by small businesses. The analysis according to facility employment size gives similar results with estimated facility closures occurring more frequently in the 1–9 and 10–79 employee size classes.

TABLE 16.—FACILITY CLOSURE IMPACTS BY BUSINESS SIZE

| Facility classifications | Regulatory option | | | | |
|---|---|---|---|---|---|
| | Initial options | | | Subsequent options | |
| | Option 1 | Option 2 | Option 3 | Option 1a/2 | Option 2a/2 |
| Total Estimated Facility Closures | 178 | 169 | 317 | 169 | 25 |
| (as percent of facilities in impact analysis) | 2.0% | 1.8% | 3.5% | 1.8% | 0.3% |
| Closures By SBA Firm-Size Criteria: | | | | | |
| Small Business-Owned | 178 | 169 | 248 | 169 | 25 |
| (as percent of class†) | 2.6% | 2.5% | 3.6% | 2.5% | 0.4% |
| Other (not Small Business-Owned) | 0 | 0 | 69 | 0 | 0 |
| (as percent of class) | 0.0% | 0.0% | 3.1% | 0.0% | 0.0% |
| Closures By Facility Employment Class: | | | | | |
| 1–9 Employees | 83 | 83 | 83 | 83 | 18 |
| (as percent of class) | 4.1% | 4.1% | 4.1% | 4.1% | 0.9% |
| 10–79 Employees | 95 | 84 | 132 | 84 | 5 |
| (as percent of class) | 4.0% | 3.5% | 5.5% | 3.5% | 0.2% |
| 80 or more Employees | 0 | 2 | 102 | 2 | 2 |
| (as percent of class) | 0.0% | 0.1% | 2.2% | 0.1% | 0.1% |

†"Class" refers to the indicated sub-group of facilities (e.g., Small Business-Owned Facilities) and "percent of class" means the percentage of that group expected to incur facility closure impacts.

Source: Environmental Protection Agency.

Although closure impacts are concentrated among small entities, the expected level of closures under the proposed option is extremely low for the small entity categorizations analyzed: 0.4 percent of small business-owned facilities; 0.9 percent of facilities with 9 or fewer employees; and 0.2 percent of facilities with 10 to 79 employees. Notably, closures among the small entity categorizations are substantially higher for all the other options analyzed. To illustrate, for small business-owned facilities, the closure rate ranges from 2.5 percent to 3.6 percent for the other four composite options presented in the table. Overall, EPA finds that the rate of expected facility closures among small business entities is well within acceptable bounds.

b. Compliance Cost Impacts by Business Size

EPA also considered the compliance costs likely to be incurred by facilities in complying with the proposed regulation. EPA assessed compliance costs in terms of (1) the total annual compliance costs expected to be imposed on facilities according to business size and (2) total annual compliance cost as a percentage of facility revenue as a measure of the relative burden of compliance costs.

*i. Analysis of Total Annual Compliance Costs*

Table 17 summarizes total annual compliance costs by business size classification of facility for the alternative regulatory options. Total annual compliance costs are calculated as the annual after-tax cash flow impact on facilities and reflect private costs of capital and the expected tax treatment of capital outlays and operating costs of compliance. This analysis shows that the aggregate compliance costs to small entities are substantially lower under the proposed Option 2a/2 than under all the other options analyzed. At $63.9 million ($1994), the estimated annual compliance cost for small business-owned facilities under the proposed Option 2a/2 is approximately 40 percent less than the cost estimated for either the initially selected Option 2 or the other secondarily defined option, Option 1a/2. The analysis based on facility employment size class further confirms the reduced impact of the proposed Option 2a/2 on small entities:

the total costs of Option 2a/2 among facilities with 9 or fewer employees are only about 9 percent of the costs for Option 2 or Option 1a/2; and the costs for Option 2a/2 among facilities with 10 to 79 employees are about half of the costs for Option 2 or Option 1a/2. That the cost burden of Option 2a/2 on small business entities is so much lower than that estimated for the other options supports EPA's choice of Option 2a/2 as the proposed regulatory option and the finding that Option 2a/2 will not impose a significant economic impact on small entities.

TABLE 17.—TOTAL ANNUAL COMPLIANCE COSTS BY BUSINESS SIZE, ALL DISCHARGERS ($000, 1994)

| Facility classification | Regulatory option | | | | |
|---|---|---|---|---|---|
| | Initial options | | | Subsequent options | |
| | Option 1 | Option 2 | Option 3 | Option 1a/2 | Option 2a/2 |
| All Facilities | 218,412 | 231,666 | 679,509 | 226,781 | 160,607 |
| By SBA Firm-Size Criteria: | | | | | |
| Small Business-Owned | 91,414 | 107,062 | 330,215 | 105,431 | 63,906 |
| Other (not Small Business-Owned) | 126,998 | 124,602 | 349,293 | 121,349 | 96,702 |
| By Facility Employment Class: | | | | | |
| 1–9 Employees | 10,996 | 11,264 | 11,781 | 10,935 | 974 |
| 10–79 Employees | 34,449 | 37,907 | 87,482 | 37,294 | 18,642 |
| 80 or more Employees | 172,967 | 182,494 | 580,245 | 178,550 | 140,991 |

Source: Environmental Protection Agency.

*ii. Analysis of Compliance Costs Relative to Facility Revenue*

Table 18 summarizes the relative compliance cost burden among facilities by business size classification. For this analysis, the compliance cost burden was assessed as the ratio of total annual compliance cost to facility revenue. Table 18 indicates for each option the average value of compliance costs as a percentage of revenue for facilities by size class, and lists the percentage of facilities in each size class expected to incur compliance costs exceeding 5 percent of revenue. For several previous regulations, EPA judged annual compliance costs that are less than five percent of facility revenue as not likely to impose a significant financial burden on the complying entity.

As shown in Table 18, EPA estimates that compliance costs as a percentage of facility revenue will be higher for small entities than for MP&M facilities generally both for the proposed Option 2a/2 and, as well, for the other options considered. However, among small business-owned facilities, total annual compliance costs are estimated to average only 0.11 percent of revenue for the proposed Option 2a/2. Moreover, in comparing compliance costs with the 5 percent of revenue threshold, EPA found that a very small percentage of small business-owned facilities, only 0.26 percent, are expected to incur total annual compliance costs exceeding 5 percent of revenue under the proposed regulatory option. Accordingly, EPA judges that the proposed regulation's cost burden on small entities would be manageable based on accepted standards of cost severity.

TABLE 18.—TOTAL ANNUAL COMPLIANCE COSTS AS A PERCENTAGE OF FACILITY REVENUE

[All Dischargers, by Business Size Criteria]

| Facility size classes | Regulatory option | | | | |
|---|---|---|---|---|---|
| | Initial options | | | Subsequent options | |
| | Option 1 | Option 2 | Option 3 | Option 1a/2 | Option 2a/2 |
| **Compliance Costs as a Percentage of Facility Revenue, Average Values by Facility Class** | | | | | |
| All Facilities | 0.41 | 0.42 | 0.65 | 0.41 | 0.10 |
| By SBA Firm-Size Criteria: | | | | | |
| Small Business-Owned Facilities | 0.51 | 0.53 | 0.78 | 0.51 | 0.11 |
| Other (not Small Business-Owned) | 0.11 | 0.11 | 0.26 | 0.11 | 0.06 |
| By Facility Employment Class: | | | | | |
| 1–9 Employees | 1.09 | 1.12 | 1.20 | 1.08 | 0.10 |
| 10–79 Employees | 0.41 | 0.42 | 0.79 | 0.42 | 0.12 |
| 80 or more Employees | 0.12 | 0.13 | 0.36 | 0.13 | 0.09 |
| **Percentage of Facilities by Class with Compliance Costs Exceeding Five Percent of Revenue** | | | | | |
| All Facilities | 0.52 | 0.47 | 1.35 | 0.52 | 0.19 |
| By SBA Firm-Size Criteria: | | | | | |
| Small Business-Owned Facilities | 0.69 | 0.63 | 1.79 | 0.69 | 0.26 |
| Other (not Small Business-Owned) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| By Facility Employment Class: | | | | | |
| 1–9 Employees | 1.27 | 1.27 | 2.78 | 1.27 | 0.00 |
| 10–79 Employees | 0.94 | 0.76 | 2.49 | 0.93 | 0.73 |
| 80 or more Employees | 0.00 | 0.00 | 0.17 | 0.00 | 0.00 |

Source: Environmental Protection Agency.

3. Small Business Impact Finding

In view of this analysis and in recognition of the Agency's efforts, as summarized above, to define the proposed option in a way that would reduce impacts to small entities, EPA concluded that the facility closure impacts and compliance cost burdens of the proposed option will not constitute an undue impact on small business entities. Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that the proposed regulation will not have a significant economic impact on a substantial number of small entities.

*L. Cost Effectiveness Analysis of MP&M Regulatory Options*

In addition to the foregoing analyses, EPA performed a cost-effectiveness analysis of the alternative regulatory options for indirect dischargers (PSES) and direct dischargers (BPT/BAT). This analysis is detailed in ''Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards for the Metal Products and Machinery Industry, Phase I'' (hereinafter ''Cost Effectiveness Report''). Cost-effectiveness analysis is used in the development of effluent limitations guidelines to evaluate the relative efficiency of alternative regulatory options in removing pollutants from the effluent discharges to the nation's waters, and to compare the efficiency of a proposed regulation with that estimated for previous regulations.

The cost effectiveness of a regulatory option is defined as the incremental annual cost (in 1981 constant dollars) per incremental toxic-weighted pollutant removal for that option. This definition embodies the following concepts:

*Toxic-weighted removals.* Because pollutants differ in their toxicity, the reductions in pollution discharges, or pollutant removals, are adjusted for toxicity by multiplying the estimated removal quantity for each pollutant by a normalizing toxic weight (Toxic Weighting Factors). The toxic weight for each pollutant measures its toxicity relative to copper, with more toxic pollutants having higher toxic weights. The use of toxic weights allow the removals of different pollutants to be expressed on a constant toxicity basis in toxic pounds-equivalent (lb-eq). The removal quantities for the different pollutants may then be summed to yield an aggregate measure of the reduction in toxicity normalized pollutant discharges that is achieved by a given regulatory option. Note that cost-effectiveness analysis does not address the removal of conventional pollutants (oil and grease, biological oxygen demand, and total suspended solids).

*Annual costs.* The costs used in the cost-effectiveness analysis are the estimated annual costs to industry for complying with the alternative regulatory options. The annual costs include the annual expenses for operating and maintaining compliance equipment and for meeting monitoring requirements, and an annual allowance for the capital outlays for pollution prevention and treatment systems needed for compliance. However, unlike the costs used in the facility impact analysis, the costs used in the cost-effectiveness analysis are calculated on a pre-tax basis and capital costs are annualized using an estimated real opportunity cost of capital to society of 7 percent. Thus, these costs represent the costs incurred by industry on behalf of society for compliance with the proposed regulation. In the facility impact analysis, costs were considered on an after-tax basis and reflected the estimated private after-tax cost of capital to MP&M firms. In addition, the costs used in the cost-effectiveness analysis are calculated in 1981 dollars so that the cost-effectiveness values for regulations applying to different industries and that were developed at different times may be consistently compared.

*Incremental calculations.* The incremental values that are calculated for a given option are the change in total annual compliance costs and change in removals from the next less stringent option, or the baseline if there is no less stringent option, where regulatory options are ranked by increasing levels of toxic-weighted removals. Thus, the cost-effectiveness values for a given option are relative to another option or, for the least stringent option considered, the baseline.

The question posed in a cost-effectiveness analysis is: what is the cost to industry of the additional toxic-weighted pollutant removals achieved by a given option relative to the next less stringent option or the baseline? The result of the cost-effectiveness calculation represents the unit cost of removing the next pound-equivalent of pollutants and is expressed in constant 1981 dollars per toxic pound-equivalent removed ($/lb-eq). The cost-effectiveness values for a given option may be compared with those of other options being considered for a given regulation and also with those calculated for other industries or regulatory settings. Although not required by the Clean Water Act, cost-effectiveness analysis is a useful tool for evaluating regulatory options for the removal of toxic pollutants.

EPA performed the cost-effectiveness analysis for the MP&M regulation separately for indirect dischargers (subject to PSES) and direct dischargers (subject to BAT/BPT). For each of the regulatory options, the pounds-equivalent removed were calculated by multiplying the estimated pounds removed of each pollutant by its toxic weighting factor and summing the toxic-weighted removals over all toxic (i.e., excluding conventional) pollutants. The estimated annual compliance costs for each option (as reported in Section XIV.D., above) were deflated to 1981 dollars. As discussed above, the cost-effectiveness values were then calculated as the change in compliance cost, in moving to a given option from the next less stringent option, divided by the change in toxic-weighted removals. The following sections summarize the results for the two classes of facilities.

1. Cost-Effectiveness Analysis for Indirect Dischargers

Table 19 summarizes the cost-effectiveness analysis for the PSES regulatory options applicable to indirect dischargers. Annual compliance costs are shown in 1994 dollars and also in 1981 dollars. In addition, pollutant removals are reported on both an unweighted and toxic-weighted basis. The regulatory options are listed in order of increasing stringency on the basis of the estimated toxic-weighted pollutant removals.

As shown in Table 19, Option 2a/2 achieves approximately 12.8 million pounds of toxic pollutant removals, on an unweighted basis and 881,300 pounds-equivalent on a toxic-weighted basis. Because Option 2a/2 is the least stringent option in terms of pollutant removals, the cost-effectiveness of this option is the same as its average cost per pounds-equivalent removed, $127. EPA considers this value to be acceptable when compared to values calculated for previous regulations.

The next more stringent option, Option 1, is estimated to achieve approximately 14.6 million pounds of toxic pollutant removals on an unweighted basis and 988,900 pounds-equivalent on a toxic-weighted basis, which is a 107,100 pounds-equivalent increment over Option 2a/2. With an estimated annual compliance cost of $137 million ($1981), or $65 million more than Option 2a/2, the calculated cost effectiveness for Option 1's removals is $607 per pound-equivalent of pollutant removed. This cost-effectiveness value is higher than the

values calculated for other industrial discharge limitations previously promulgated by EPA.

In moving from Option 1 to Option 1a, toxic-weighted pollutant removals increase by 22,100 pounds-equivalent while costs decrease by $7.2 million. Thus, the cost effectiveness of Option 1a relative to Option 1 is a negative $327 per pound-equivalent of additional pollutant removed. Because Option 1a is estimated to impose lower cost on industry and society than Option 1 while, at the same time, achieving greater toxic-weighted removals, Option 1a may be said to dominate Option 1 from an economic efficiency perspective. That is, within the context of the cost-effectiveness analysis, society would always be better off by choosing the more stringent Option 1a over Option 1 because greater toxic-weighted pollutant removals would be achieved by Option 1a but at a lower total pre-tax cost of compliance.

TABLE 19.—COST EFFECTIVENESS OF REGULATORY OPTIONS FOR THE METAL PRODUCTS AND MACHINERY INDUSTRY

[Indirect Dischargers (PSES)]

| Regulatory option | Annual compliance costs | | Unweighted pollutant removals (000, lbs) | Weighted pollutant removals | | Incremental cost ($000,000, 1981) | Cost effectiveness ($/lb-eq, $1981) |
|---|---|---|---|---|---|---|---|
| | ($000,000, 1994) | ($000,000, 1981) | | (000, lbs-eq) | Incremental (000, lbs-eq) | | |
| Option 2a | 171.1 | 111.9 | 12,769.7 | 881.3 | 881.3 | 111.9 | 127 |
| Option 1 | 271.0 | 177.2 | 14,611.7 | 988.9 | 107.6 | 65.3 | 607 |
| Option 1a | 260.0 | 170.0 | 14,872.8 | 1,011.0 | 22.1 | (7.2) | (327) |
| Option 2 | 267.5 | 174.9 | 14,878.8 | 1,011.6 | 0.6 | 4.9 | 8,537 |
| Option 3 | 783.7 | 512.3 | 15,612.1 | 1,105.4 | 93.8 | 337.4 | 3,596 |

The cost effectiveness for a regulatory option is defined as the incremental cost per incremental removal in toxic pounds equivalent ($/lb-eq) for that option. The ''increment'' for a given option is the change in costs or removals from the next less stringent option, or the baseline if there is no less stringent option (i.e., Baseline to Option 2a, Option 2a to Option 1, . . .). Regulatory options are ranked by increasing levels of toxic-weighted removals. Cost effectiveness-values are calculated in 1981 dollars to permit consistent comparison of cost-effectiveness values among regulations promulgated at different times.

Source: U.S. Environmental Protection Agency.

Stepping beyond Option 1a to Option 2 is clearly not cost effective for existing indirect dischargers in comparison to values calculated for previous regulations. Stepping from Option 1a to Option 2 yields very little additional toxic-weighted pollutant removals, 600 pounds-equivalent, at an additional estimated cost of $4.9 million. Because the increase in removals is so small, the cost-effectiveness value for moving from Option 1a to Option 2 is extremely high at $8,537 per pound-equivalent of additional pollutant removed. The only difference between Option 1a and Option 2 is that Option 2 applies the mass-based limitations of Option 2 to low-flow indirect dischargers while Option 1a applies the somewhat less stringent, concentration-based limitations of Option 1 to these facilities. Thus, the high cost-effectiveness value of $8,537 stems entirely from the increased stringency of regulatory requirements for these low-flow indirect discharging facilities and demonstrates the poor cost effectiveness of applying the Option 2 requirements to this class of facilities. As noted in Section XIV.C, above, the finding of such a high cost-effectiveness value for Option 2 for low-flow indirect discharging facilities was an important factor in EPA's decision to define and evaluate alternatives to Option 2 for these facilities in developing the PSES regulatory proposal.

Moving from Option 2 to Option 3 was also found to yield a high cost-effectiveness value. Although the incremental removals for this step are relatively substantial at 93,800 pounds-equivalent, the large increase in cost of $337.4 million yields a cost-effectiveness value of $3,596 per pound-equivalent of additional pollutant removed, thus rendering this option unacceptable from the standpoint of cost effectiveness.

On the basis of this analysis, EPA determined that the proposed option, Option 2a, is cost effective. The cost-effectiveness analysis supports the choice of Option 2a as the proposed PSES regulatory option for indirect dischargers.

2. Cost-Effectiveness Analysis for Direct Dischargers

Table 20 summarizes the cost-effectiveness analysis for the BPT/BAT regulatory options applicable to direct dischargers. As before, annual compliance costs are shown in 1994 dollars and also in 1981 dollars; and pollutant removals are reported on both an unweighted and toxic-weighted basis. The regulatory options are listed in order of increasing stringency on the basis of estimated toxic-weighted pollutant removals. The ranking of annual compliance costs matches the ranking of option stringency.

As shown in Table 20, Option 1 is estimated to achieve approximately 1.2 million pounds of toxic pollutant removals on an unweighted basis and 58,200 pounds-equivalent on a toxic-weighted basis. With an estimated annual compliance cost of $11.9 million ($1981), the calculated cost effectiveness for Option 1—s removals is $204 per pound-equivalent of pollutant removed. In moving from Option 1 to Option 2, toxic-weighted pollutant removals increase by 12,500 pounds-equivalent at a cost increase of $0.6 million. Thus, the cost effectiveness of stepping to Option 2 is a comparatively low $50 per pound-equivalent of additional pollutant removed. EPA considers both of these cost-effectiveness values to be acceptable in relation to the values calculated for previous regulations.

TABLE 20.—COST EFFECTIVENESS OF REGULATORY OPTIONS FOR THE METAL PRODUCTS AND MACHINERY INDUSTRY
[Direct Dischargers (BPT/BAT)]

| Regulatory option | Annual compliance costs | | Unweighted pollutant removals (000, lbs) | Weighted pollutant removals | | Incremental cost ($000,000, 1981) | Cost effectiveness ($/lb-eq, $1981) |
|---|---|---|---|---|---|---|---|
| | ($000,000, 1994) | ($000,000, 1981) | | (000, lbs-eq) | Incremental (000, lbs-eq) | | |
| Option 1 | 18.2 | 11.9 | 1,152.5 | 58.2 | 58.2 | 11.9 | 204 |
| Option 2 | 19.1 | 12.5 | 1,232.2 | 70.7 | 12.5 | 0.6 | 50 |
| Option 3 | 80.5 | 52.6 | 1,446.7 | 133.6 | 62.9 | 40.1 | 638 |

The cost effectiveness for a regulatory option is defined as the incremental cost per incremental removal in toxic pounds equivalent ($/lb-eq) for that option. The ''increment'' for a given option is the change in costs or removals from the next less stringent option, or the baseline if there is no less stringent option (i.e., Baseline to Option 1, Option 1 to Option 2, . . .). Regulatory options are ranked by increasing levels of toxic-weighted removals. Cost effectiveness-values are calculated in 1981 dollars to permit consistent comparison of cost-effectiveness values among regulations promulgated at different times.

Source: U.S. Environmental Protection Agency.

Option 3's cost effectiveness of $638 per pound-equivalent of additional pollutant removed is substantially poorer than the cost effectiveness of Options 1 and 2. Stepping from Option 2 to Option 3 nearly doubles the total toxic-weighted removals with a substantial increase of 62,900 pounds-equivalent. However, Option 3's annual compliance costs are more than four times those estimated for Option 2 and the resulting additional cost of $40.1 million yields the relatively high cost-effectiveness value of $638 per pound-equivalent.

From this analysis, EPA determined that Option 2 is cost effective, and the cost-effectiveness analysis supports the choice of Option 2 as the proposed BPT/BAT regulatory option for direct dischargers.

EPA also performed the cost-effectiveness analysis with an additional set of weighting factors called Pollutant Weighting Factors, which are a modification of the Toxic Weighting Factors on which the preceding analyses are based. Pollutant Weighting Factors are not related to a benchmark pollutant (i.e., copper) and normalize toxicity on a different scale. This additional analysis can be found in Appendix A of the Cost Effectiveness Report.

## XV. Executive Order 12866

### *A. Introduction*

Under Executive Order 12866 [58 Federal Register 51, 735 (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is a ''significant regulatory action'' because it is expected to impose an annual cost on the economy exceeding $100 million. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

Because of the finding that the MP&M regulation is a ''significant regulatory action'' within the meaning of Executive Order 12866, the Agency has prepared a Regulatory Impact Assessment (RIA) for the proposed regulatory alternative. The RIA responds to the requirements in Executive Order 12866 to assess both the benefits and costs to society of significant regulatory actions. The RIA is detailed in, ''Regulatory Impact Assessment of Proposed Effluent Guidelines for the Metal Products and Machinery Industry, Phase I,'' (see Section II. for availability of this and other supporting documents).

### 1. Overview of Benefits Analyzed

The RIA assesses the benefits of proposed regulations to reduce effluent discharges in the MP&M industry. Three broad classes of benefits are considered: human health, ecological, and economic productivity benefits. Each class is comprised of a number of more narrowly defined benefits categories. EPA expects that benefits will accrue to society in all of these categories. Because of data limitations and imperfect understanding of how society values some of these benefit categories, however, EPA was not able to analyze all of these categories with the same level of rigor. At the highest level of analysis, EPA was able to quantify the expected effects for some benefit categories and attach monetary values to them. Benefit categories for which EPA developed dollar estimates include reduction in cancer risk from fish consumption, increased value of recreational fishing opportunities, and reduced costs of managing and disposing of POTW sewage sludges. For other benefit categories, EPA was able to quantify expected effects but not able to estimate monetary values for them. Examples of these benefit categories include change in the frequency with which certain aquatic species are exposed to lethal concentrations of certain pollutants, and change in certain human health risk indicators. Finally, EPA was able to identify and qualitatively describe certain benefit effects but was not able to assess them on either a quantitative or an economic value basis. These benefit categories include but are not limited to: enhanced diversionary uses, improved aesthetic quality of waters near discharge outfalls, enhanced water-dependent recreation other than fishing, and benefits to wildlife and to threatened or endangered species, option and existence values, cultural values, tourism benefits, and biodiversity benefits. Table 21 summarizes the benefit categories discussed above and identifies those that were monetized, those that were quantitatively assessed (but not monetized), and those that are expected to result from the regulation but were neither quantitatively assessed nor monetized.

TABLE 21.—BENEFIT CATEGORIES ASSOCIATED WITH WATER QUALITY IMPROVEMENTS RESULTING FROM THE METAL PRODUCTS AND MACHINERY EFFLUENT GUIDELINE

| Benefit category | Quantified and monetized | Quantified and nonmonetized | Nonquantified and nonmonetized |
|---|---|---|---|
| Human Health Benefits: | | | |
| Reduced cancer risk due to consumption of chemically-contaminated fish | X | | |
| Reduced cancer risk due to ingestion of chemically-contaminated drinking water | | X | |
| Reduced systemic health hazards (e.g. reproductive, immunological, neurological, circulatory, or respiratory toxicity) from consumption of chemically-contaminated fish. | | X | |
| Reduced systemic health hazards (e.g. reproductive, immunological, neurological, circulatory, or respiratory toxicity) due to ingestion of chemically-contaminated drinking water. | | X | |
| Reduced cancer risk from exposure to unregulated contaminants in chemically-contaminated sewage sludge. | | | X |
| Reduced systemic health hazards from exposure to unregulated contaminants in chemically-contaminated sewage sludge. | | | X |
| Reduced health hazards from exposure to contaminants in waters used recreationally (e.g., swimming and boating). | | | |
| Ecological Benefits: | | | |
| Enhanced recreational fishing | X | | |
| Reduced risk to aquatic life | | X | |
| Enhanced in-stream recreation such as swimming, boating, hunting, rafting, subsistence fishing. | | | X |
| Improved water enhanced recreation such as hiking, picnicking, birdwatching, photography. | | | X |
| Increased aesthetic benefits such as enhancement of adjoining site amenities (e.g. residing, working, traveling, and owning property near the water). | | | X |
| Existence value | | | X |
| Option value | | | X |
| Reduced risk to terrestrial wildlife including endangered species | | | X |
| Protection of biodiversity | | | X |
| Protection of cultural valuation | | | X |
| Reduced non-point source nitrogen contamination of water if sewage sludge is used as a substitute for chemical fertilizer on agricultural land. | | | X |
| Satisfaction of a public preference for beneficial use of sewage sludge* | | | X |
| Economic Productivity Benefits: | | | |
| Reduced sewage sludge disposal costs | X | | |
| Enhanced tourism | | | X |
| Improved commercial fisheries yields | | | X |
| Addition of fertilizer to crops (nitrogen content of sewage sludge is available as a fertilizer when sludge is land applied)*. | | | X |
| Improved crop yield (the organic matter in land-applied sewage sludge increases soil's water retention)*. | | | X |
| Reduced management practice and recordkeeping costs for appliers of sewage sludge meeting exceptional quality criteria. | | | X |
| Reduced management and disposal costs for ''cleaner'' sewage sludge that does not meet land application criteria. | | | X |
| Avoidance of costly siting processes for more controversial sewage sludge disposal methods (e.g., incinerators) because of greater use of land application. | | | X |
| Reduced water treatment costs for municipal drinking water, irrigation water, and industrial process and cooling water. | | | X |

*Some double counting between this benefit category and ''reduced sewage sludge disposal costs'' is present.

The monetary assessment of benefits is inevitably incomplete. As mentioned above, monetary values were estimated for only a few of the likely benefit categories. In addition, because of data and measurement limitations, some of the available valuation measures do not fully account for all of the mechanisms by which society is likely to value a given benefit event. As a result, the estimated dollar values that are attached to certain of the estimated benefit events may understate society's willingness-to-pay to achieve those benefit events. For example, reduced sewage sludge disposal costs may understate society's willingness-to-pay for less polluted sewage sludge because public preferences as revealed through political decision-making processes indicate that some communities would be willing to pay for beneficial sewage sludge use (land application) even when it is more costly than other disposal options. As a result, the estimate of the dollar value of benefits to society is a partial, noncomprehensive estimate and, in all likelihood, understates the economic benefits that will accrue from the proposed regulation.

2. Overview of Costs Analyzed

The RIA compares EPA's best estimate of the monetized benefits of the proposed MP&M regulation to the estimated costs to society for achieving those benefits. To assess the economic costs to society of the MP&M regulation, EPA relied foremost on the estimated costs to MP&M facilities for the labor, equipment, material, and other economic resources needed to meet the discharge limitations specified by the proposed regulation. These cost estimates are the same as those used for the zero-cost-pass-through analysis of

facility impacts described in Section XIV of this document (i.e., in which firms must absorb all of the regulatory compliance costs). In the societal cost-benefit analysis, however, accounting for these costs differs from that in the facility impact analysis. In the facility impact analysis, costs and their impacts are considered in terms of their effects on the financial performance of the firms and facilities affected by regulation. To understand the significance of those costs to affected firms and facilities and their likely responses to the proposed regulation, the analyses explicitly considered the expected tax treatment of the annual expenses and capital outlays for compliance. In addition, the annual charges for the capital outlays were calculated using private costs of capital. Thus, the total annual compliance costs reported earlier in this document are the costs *to industry* and are presented on an after-tax basis reflecting private costs of capital. In the analysis of the costs to society, however, these compliance costs are considered on a before-tax basis and the annualization of capital outlays is based on an opportunity cost of capital *to society*. In general, because of the elimination of tax considerations, the estimated compliance costs are greater from the perspective of society than from the perspective of private industry.

In addition to the estimated resource costs to society of regulatory compliance, the estimate of social cost used in this analysis includes two other cost elements: the cost to governments (federal, state, and local) of administering the permitting and compliance monitoring activities under the proposed regulation (as discussed above at Section XIV.C.1); and the costs associated with unemployment that may result from the proposed regulation. The unemployment-related costs include: the cost of administering unemployment programs for workers who are estimated to lose employment (but not the cost of unemployment benefits, which are a transfer payment within society); and an estimate of the amount that workers would be willing to pay to avoid involuntary unemployment. In much the same way that society may value the benefits of avoided adverse health effects stemming from the regulation on the basis of willingness-to-pay, society may also value the incurrence of unemployment as a cost of the regulation using the same willingness-to-pay principle of valuation.

3. Organization of Following Discussion

The following sections of this preamble discuss the estimated benefits and costs to society of the proposed MP&M regulation. The next section, Section B, describes the broad categories of benefits associated with the MP&M rule as well as the estimation of these benefits while Section C summarizes the estimated costs. Section D summarizes the comparison of estimated national benefits and costs for the proposed regulation.

*B. Benefits Associated With the Proposed Effluent Guidelines*

MP&M industry effluents contain priority and non-conventional metals, organics and conventional pollutants. Discharge of these pollutants into freshwater, estuarine, and marine ecosystems may alter aquatic habitats, affect aquatic life and terrestrial wildlife, and adversely affect human health. Many of these pollutants are human carcinogens, human systemic toxicants, aquatic life toxicants, or all of the above. In addition, many of these pollutants persist in the environment, resist biodegradation, and bioaccumulate in aquatic organisms.

The Agency's analysis of these environmental and human health risk concerns and of the water-related benefits resulting from the proposed effluent guidelines is contained in the ''Environmental Assessment of the Metal Products and Machinery Industry (Phase I)'', hereafter called the Environmental Assessment (see Section II. for availability of this document). This assessment qualitatively and quantitatively evaluates the potential human health benefits and water quality benefits of controlling the discharges of 66 pollutants from the MP&M industry group. (see the Environmental Assessment and the RIA for a discussion of the pollutants).

In this analysis, benefits were assessed by identifying the various ways in which the reduction in discharges from the MP&M industry would be expected to provide benefits. Regulations that improve water quality will generally provide benefits in several broad categories, which are summarized below. Please refer to Table 21 for a list of the different types of benefits that fall under each category.

*Human health benefits.* Reduced pollutant discharges to the nation's waterways will generate human health benefits by a number of mechanisms. The most important and readily analyzed of the human health benefits stem from reduced risk of illness associated with the consumption of water, fish or other food that is taken from waterways affected by effluent discharges. Human health benefits are typically analyzed by estimating the change in the expected number of adverse human health events in the exposed population resulting from a reduction in effluent discharges. While some health effect mechanisms such as cancer are relatively well understood and thus may be quantified in a benefits analysis, others are less well understood and may not be assessed with the same rigor or at all. For example, this analysis quantitatively examines only two health effect categories: incidence of cancer and a composite indicator of systemic, non-cancer health risk. However, in this analysis, only incidence of cancer is translated into an expected number of avoided adverse health events (i.e., avoided cancer cases) and, on that basis, monetized. Dose-response relationships are not available for other health events that might also be avoided by reduced pollutant exposures. The economic valuation of these health effect events is generally based on estimates of the monetary value that society is willing to pay for their avoidance. Such ''willingness-to-pay'' valuations are generally considered to provide a fairly comprehensive measure of society's valuation of the health-related benefit in that they account for such factors as the costs of health care,[9] loss in income, and pain and suffering (both among affected individuals and family and friends). In some cases, less comprehensive valuations are used that are based only on the estimated costs of health care, remedial treatments, or forgone income.

*Ecological benefits.* Ecological benefits stem from improvements in habitats or ecosystems that are affected by effluent discharges. For example, spawning grounds for important recreationally or commercially caught fish species may be restored in response to a reduction in MP&M effluent discharges. It is frequently quite difficult, however, to quantify and attach economic values to benefit categories that are referred to as ecological benefits. The difficulty in quantifying benefit categories results from imperfect understanding of the relationship between changes in effluent discharges and the benefit events. In addition, it is often difficult to attach monetary values to these benefit categories because the benefit events do not occur in markets in which prices or costs are readily observed. Ecological benefits may be loosely classified as non-market, use benefits, and non-market, non-use benefits.

[9] Individuals with health insurance, however, would not include the part of medical care cost covered by insurance in their willingness-to-pay to avoid adverse health effects.

*Non-market,* use *benefits* stem from improvements in ecosystems and habitats that, in turn, lead to enhanced human use and enjoyment of the affected areas. For example, reduced discharges may lead to increased recreational use and enjoyment of affected waterways in such activities as fishing, swimming, boating, hunting or birdwatching. Such uses can be classified as either consumptive or non-consumptive. Consumptive uses can be distinguished from non-consumptive uses in that the former excludes other uses of the same resource. For example, if recreational anglers consume their fish catch, the stock of the natural resource is at least temporarily depleted. With non-consumptive uses, however, the resource base generally remains in the same state before and after use (e.g., birdwatching).[10]

In some cases, it may be possible to quantify and attach partial economic values to such benefit events on the basis of market values (e.g., an increase in tourism activity associated with improved recreational fishing opportunities); in this case, these benefit events might better be classified as economic productivity related events as explained in the next section. These events, however, are often not able to be fully valued using information from economic markets. In this case, they are more appropriately classified as non-market use ecological benefits since economic markets will only capture related expenditures made by recreational users such as food and lodging and will not capture the value placed on the experience itself.

The second broad class of ecological benefits, non-market, non-use benefits, includes benefit events that are not associated with current use of the affected ecosystem or habitat but arise from the realization of the improvement in the affected ecosystem or habitat resulting from reduced effluent discharges. This class of benefits also includes the value that individuals place on the potential for use sometime in the future either by themselves or future generations. As an example of the former, people may attach a value to protecting habitats and species that are otherwise detrimentally affected by effluent discharges even when they do not use or anticipate future use of the affected waterways for recreational or other purposes. The latter can be described as a combination of insurance and speculative value which reflects individuals' wish to protect the option to use and enjoy a resource at some later date. From an ecosystem standpoint, pristine habitats and wildlife refuges are often preserved under the assumption that plant or animal species that may yield pharmaceutical, genetic, or ecosystem benefits yet to be discovered. These benefits may also manifest by other valuation mechanisms, such as: cultural valuation, philanthropy, and bequest valuation. It is often extremely difficult or even impossible to quantify the relationship between changes in discharges and the improvements in societal well-being associated with such valuation mechanisms. That these valuation mechanisms exist, however, is indisputable as evidenced, for example, by society's willingness to contribute to organizations whose mission is to purchase and preserve lands or habitats for the sole purpose of averting development.

*Economic productivity benefits.* Reduced pollutant discharges may also generate benefits through improvements in economic productivity. For example, economic productivity gains may occur through reduced costs to public sewage systems (publicly owned treatment works or POTWs) for managing and disposing of the sewage sludge that results from treatment of effluent discharges. With less pollutant contamination of industry's discharges to POTWs, the POTWs in turn incur lower costs in managing and disposing of their treatment residuals. Similarly, economic productivity may be enhanced due to reduced treatment costs associated with irrigation water, industrial cooling water and municipal drinking water supplies. Other economic productivity gains may result from improved tourism opportunities in areas that are affected by effluent discharges. In addition, ecological benefits such as improved species survival will be translated into economic productivity benefits such as increases in commercially caught fish populations and yield. When such economic productivity effects can be identified and quantified, they are generally straightforward to value because they often involve market-place events for which prices or unit costs are readily available.

As indicated above, some of these improvements reduce societal costs. As such, these improvements (i.e. reduced treatment and disposal costs) could be described as a reduced cost and be included in the economic cost analysis rather than in the benefits analysis. For this analysis, they are treated as a benefit of the effluent guideline.

1. Qualitative Description of the Benefits

Benefits to human health associated with the proposed rule include reductions in cancer risk and systemic health problems (e.g. reproductive, immunological, neurological, circulatory, or respiratory toxicity) that are caused by consuming chemically-contaminated fish and ingesting chemically-contaminated drinking water. With respect to fish consumption, benefits will accrue to recreational and subsistence fishermen and to their families. In addition, populations served by drinking water intakes located on river reaches to which MP&M facilities discharge will benefit from reduced pollutant concentrations in MP&M wastewater discharges.

Benefits to aquatic life include reduction of priority and non-conventional metals, organics, and conventional pollutants to levels below those considered to negatively affect receiving water's biota. Such impacts include acute and chronic toxicity, sublethal effects on metabolic and reproductive functions, physical destruction of spawning and feeding habitats, and loss of prey organisms. Chemical contamination of aquatic biota may also directly or indirectly impact local terrestrial wildlife. Reductions in such impacts will enhance recreational fishing opportunities in terms of both the quality and abundance of species caught. As a result, more persons may fish a given area and the value of their fishing experience may increase on a per fishing event basis.

Benefits from changes in sewage sludge disposal practices will be realized as publicly owned treatment works (POTWs) are able to dispose of cleaner (i.e. less toxic) sewage sludge by less expensive and more environmentally beneficial methods. For example, cleaner sewage sludge may be applied to agricultural land rather than being incinerated or disposed of in landfills and other land sites. In addition to the direct cost savings that may accrue to POTWS, when sewage sludge is beneficially applied to land, its nitrogen content is available as a valuable fertilizer. In addition, the organic matter in sludge will generally improve the soil structure for plant growth and increase the ability of soil to retain water. As a result, land application of sewage sludge may yield benefits in terms of overall improvements in soil quality and crop yields. Benefits may also accrue through greater flexibility in managing and disposing of POTW sewage sludges and

[10] Even some so-called non-consumptive uses may temporarily deplete the natural resource or reduce the potential value to other users. For example, over-use of the habitat or crowding in such pursuits as bird-watching may diminish the value of the natural resource to other users.

shifts into beneficial reuse of sewage sludge even when the reduction in sludge contamination levels does not yield direct cost savings to POTWs. These latter components of economic benefits from less contamination of POTW sewage sludges are not addressed in this analysis.

2. Quantitative Estimate of Benefits

EPA quantified and monetized human health, aquatic life, recreational fishing, and sewage sludge disposal benefits using a site-specific analysis for baseline conditions and for the conditions that are expected to be achieved by BAT/PSES process changes. Quantified but not monetized benefits include reductions in excursions of health-based water quality toxic effects levels and aquatic life criteria as well as reductions in the frequency with which certain aquatic species are exposed to lethal concentrations of MP&M pollutants. It should be noted that the benefit categories that were able to be quantified and monetized in this analysis represent only a few of the benefits that are likely to be achieved by the proposed regulation (see Table 21).Q

Quantified human health benefits are estimated by:

- Estimating the potential reduction of carcinogenic risk and systemic hazards from fish consumption;
- Estimating the potential reduction of carcinogenic risk and systemic hazards from ingestion of drinking water; and
- Comparing estimated in-stream concentrations to health-based water quality toxic effect levels.

Quantified aquatic life benefits are estimated by:

- Comparing modeled in-stream concentrations to aquatic life water quality criteria or toxic effect values (AWQCs); and
- Comparing in-stream concentrations to estimated lethal threshold concentrations for selected aquatic species.

Quantified recreational fishing benefits are calculated on the basis of the estimated increase in the value per person-day of fishing in a waterbody from which all MP&M AWQC excursions are eliminated. Sewage sludge disposal benefits are calculated on the basis of the incremental quantity of sludge that, as a result of reduced pollutant discharges to POTWs, meets criteria for the generally less expensive disposal methods, namely land application and surface disposal. The methodologies used in these analyses, including all assumptions and limitations, are explained in the Regulatory Impact Analysis.

a. Cancer Risk and Systemic Hazards and Benefits

Aggregate cancer risk, and systemic hazards from drinking contaminated water were estimated for populations served by drinking water intakes on waterbodies to which MP&M facilities discharge. In-stream concentrations of 4 carcinogenic and 33 systemic toxicants were estimated for 396 facilities discharging directly or indirectly to 326 receiving waterways using a model of the instream pollutant mixing and dilution process. In-stream concentrations were estimated for the initial discharge reach and for downstream reaches taking into account the various mechanisms by which pollution concentrations diminish below the initial point of discharge (e.g., dilution, adsorption, volatilization, and hydrolysis). The calculated in-stream concentrations were used to estimate the change in cancer risk and systemic hazards resulting from the proposed and alternative MP&M regulatory options for populations served by drinking water intakes.

In addition, aggregate cancer risk and systemic hazards from consuming contaminated fish were estimated for recreational and subsistence anglers and their families. This analysis relied on the same estimates of instream pollutant concentrations as used for the drinking water health effects analysis. Pollutant contamination of fish flesh was estimated using biological uptake factors. Data on licensed fishing population by state and county, presence of fish advisories, fishing activity rates, and average household size were used to estimate the population of recreational and subsistence anglers and their families that would benefit from reduced contamination of fish. Fish consumption rates for recreational and subsistence anglers were used to estimate the change in cancer risk and systemic hazards among these populations.

For combined recreational and subsistence angler populations, the proposed BAT and PSES options are projected to eliminate approximately 2.7 cancer cases per year from a baseline of about 11.1 cases estimated at the current discharge level, representing a reduction of about 25 percent. For the drinking water population, EPA estimated that reduced pollutant discharges under the proposed BAT and PSES options would reduce cancer risk by approximately 3.0 cancer cases per year. However, EPA has published drinking water criteria for all of the chemicals for which these avoided cancer cases were estimated. As a result, these avoided cancer cases were excluded from the benefits evaluation because it is assumed that public drinking water treatment systems will remove these pollutants from the public water supply.

In addition to the estimated changes in cancer risk in exposed populations, EPA also estimated the change in an indicator of systemic, non-cancer risk of illness. This composite risk indicator, or systemic hazard score, which is based on the change in exposure to pollutants through fish and water consumption relative to pollutant-specific health effects thresholds, yields an additional measure of the human health benefits that are likely to result from the proposed regulation. Specifically, the systemic hazard score is calculated as the sum of the ratios of quantities of pollutants ingested into the human body relative to the daily reference dose for each pollutant. Values above or near one are highly suggestive of a risk of systemic health hazard. The hazard score assumes that the combined effect of ingesting multiple pollutants is proportional to the sum of their effects individually.

The distribution of hazard scores was calculated for drinking water and fish consumption populations on the basis of baseline and post-compliance exposures. For each exposed population category, the change in the distribution from baseline to the post-compliance case provides a measure of the reduced risk of systemic health hazard from reduced MP&M industry discharges. Analytic tractability issues prevented this analysis from being able to be done on a sample-weighted basis. The results are for sample discharge locations only. The results for both the fish and drinking water analysis show movement in populations from higher risk values to lower risk values. In addition, both analyses show substantial increments in the percentage of exposed population that would be exposed to no risk of systemic health hazard associated with discharges by MP&M facilities.

b. Excursions of Health-Based Water Quality Toxic Effect Levels

In addition to the estimated changes in cancer and systemic risk in exposed populations, EPA also estimated the effect of facility discharges of regulated pollutants on pollutant concentrations in affected waterways relative to ambient water criteria for protection of human health. The estimated concentrations were compared, on both a baseline and post-compliance basis, with EPA ambient water quality criteria (AWQCs) for protection of human health through consumption of

organisms and consumption of organisms and water. Pollutant concentrations in excess of these values indicate potential risks to human health. EPA modeling results show that 137 reaches exceed AWQC values at baseline discharge levels. Proposed BAT and PSES options are projected to eliminate concentrations in excess of the criteria on 40 of these reaches, leaving an estimated 97 reaches with concentrations in excess of AWQC values for protection of human health.

The analyses pertaining to change in human health risk described in this and the preceding section ignore the potential for joint effects of more than one pollutant. Each pollutant is dealt with in isolation and the individually estimated effects are added together. The analyses do not account for the possibility that several pollutants may combine in a synergistic fashion to yield more adverse effects to human health than indicated by the simple sum of the individual effects.

c. Aquatic Life Benefits

To assess aquatic life benefits, EPA estimated the effect of facility discharges of regulated pollutants on pollutant concentrations in affected waterways. The estimated concentrations were compared, on both a baseline and post-compliance basis, with EPA ambient water quality criteria (AWQCs) for acute and chronic exposure impacts to aquatic life. Pollutant concentrations in excess of these values indicate potential impacts to aquatic life. EPA modeling results show that 130 reaches exceed AWQC values at baseline discharge levels. Proposed BAT and PSES options are projected to eliminate concentrations in excess of the criteria on 88 of these reaches, leaving an estimated 41 reaches with concentrations in excess of AWQC values for aquatic life.

EPA also analyzed aquatic life benefits on the basis of the change in frequency with which certain aquatic species may be expected to be exposed to lethal concentrations of pollutants discharged by MP&M facilities. As such, this analysis focuses solely on acute (short-term) toxicity and does not consider chronic (long-term) toxicity. This analysis examined the effects of specific pollutants on selected aquatic species with a relatively wide range of sensitivity to MP&M pollutants. Specifically, thirteen MP&M pollutants thought to be among those having the greatest potential to cause risks to aquatic life were analyzed. Species with socioeconomic importance such as trout, bass, and catfish were highlighted, but all species for which data were available, including those of less socioeconomic importance, were evaluated. This analysis uses a species sensitivity distribution rather than a single toxicity threshold concentration in comparison to in-stream pollutant concentrations for the following three reasons:

1. Species sensitivity distributions, which are used by EPA to set water quality criteria, can be used to relate exposure concentrations to the proportion of species whose toxicological effect concentrations (e.g., LC50 , the lethal concentration for fifty percent of a species, or some lower lethal threshold such as an LC10 or LC1) are exceeded. This proportion provides an indication of the percentage of aquatic species that would be directly affected [11] at the exposure concentration. Unlike comparisons to water quality criteria, which usually yield ratios of the exposure concentration to the criterion concentration, the proportion of species that are likely to be directly affected provides a more intuitive indicator of ecological risk. It should be noted, however, that both indicators of ecological risk (water quality criteria and proportion of species impacted) suffer from the inability to account for indirect impacts on aquatic ecosystems, such as those that result from interruption of predator-prey relationships. Therefore, neither approach should be considered to provide absolute measures of ecological risk.

2. The variation in chemical sensitivity over a group of species is known to vary among chemicals (Erickson and Stephan, 1988). For example, consider two chemicals both of which are at lethal effect concentrations for five percent of a habitat's species. A given percentage increase (e.g., doubling) of both pollutants' concentrations will not necessarily lead to the same increase in the proportion of the species that are exposed to lethal effect concentrations. That is, doubling one chemical's concentration might increase the proportion of species affected from five percent to 25 percent while doubling the other chemical's concentration might increase the proportion of species affected from five percent to 50 percent. This diversity of species' response to changes in concentrations of different pollutants is better captured by use of distributions of response over the group of species in the habitat.

3. Because the identities of the tested species comprising the species sensitivity distributions are known, the use of species sensitivity distributions allowed EPA to identify which of the tested species are at risk from exposure to regulated pollutants and which are likely to benefit from reduced discharges.

Using species sensitivity distributions, EPA estimated the proportion of tested species whose lethal threshold concentrations would be exceeded at various exposure concentrations. In interpreting these results, EPA assumed that a greater proportion of species affected signifies a greater risk of lethal effects in the population of species present in a habitat. This analysis found that the proposed regulation will yield significant reductions in the expected frequency with which certain aquatic species may be exposed to lethal concentrations of pollutants. The reduced exposure translates into benefits such as increased species diversity and abundance which would, in turn, enhance recreational and commercial fishing opportunities (see the RIA for additional discussion of this analysis and its findings in terms of benefits to specific species).

d. Recreational Fishing Benefits

As described above, the proposed BAT and PSES options will reduce the number of excursions of aquatic life criteria or toxic effect values. EPA assumes that elimination of criteria excursions for *all* regulated pollutants in a waterbody will achieve water quality that is protective of aquatic life. This improvement in water quality, in turn, generates benefits to recreational anglers by increasing the value of their experience or the number of days they subsequently choose to fish the waterbody. These benefits, however, do not include all of the benefits that are associated with improvements in aquatic life. For example, recreational benefits do not capture the benefit of increased assimilative capacity of a receiving waterbody, improvements in the taste and odor of the instream flow, or improvements to other recreational activities such as swimming and wildlife observation that may be enhanced by improved water quality. Modeling results show that, under the proposed regulatory option, criteria excursions for all pollutants whose discharges are affected by the MP&M regulation are eliminated in 123 discharge locations.

[11] The term ''directly affected'' is used here to reflect impacts from direct exposure to a pollutant, rather than ''indirect'' effects such as those that occur due to the loss of important predator or prey species.

e. Avoided Sewage Sludge Disposal Costs

To estimate the quantity of sewage sludge that will be disposed of using a less expensive method due to the proposed regulatory requirements, EPA calculated baseline and post-compliance sewage sludge quality and compared sewage sludge pollutant concentrations to criteria for land application and surface disposal.[12] POTWs are assumed to choose the least expensive sewage sludge use or disposal option for which the sludge meets pollutant criteria. For many POTWs, the least expensive or ''preferred'' option is generally agricultural application (a type of land application) or surface disposal of sewage sludge. As a result of the proposed regulation, many POTWs are expected to achieve substantial cost savings by disposing of sewage sludge through agricultural application or surface disposal. For POTWs with limited access to agricultural land and surface disposal sites, the cost savings resulting from sewage sludge with lower pollutant concentrations are expected to be less substantial. However, disposal of sewage sludge that meets agricultural application limits through distributing and marketing methods may achieve some cost savings for these facilities. In the baseline, an estimated 5,559 of 6,950 POTWs meet criteria for surface disposal or land application. Of the 5,559 POTWs meeting surface disposal or land application criteria, 5,309 meet the more stringent criteria for beneficial land application while 250 meet only the more lenient surface disposal criteria. Under the proposed regulation, the total of POTWs that are expected to meet criteria for surface disposal or land application increases to 5,743. Of this total that meet criteria for surface disposal or land application, 5,493 POTWs (or an increase of 184 POTWs) are expected to meet criteria for beneficial land application, while 250 POTWs continue to meet criteria for surface disposal.

3. Monetization of Benefits

For this regulation, EPA estimated the monetary value of benefits for three benefit categories: human health benefits from reduced exposure to carcinogens in fish taken from waterways affected by MP&M discharges; enhanced recreational fishing opportunities in waterways affected by MP&M discharges; and reduced costs to POTWs in managing and disposing of sewage sludge that is affected by MP&M discharges.

a. Valuation of Human Health Benefits

EPA estimated the value of a limited set of possible human health benefits from the human health risk assessment discussed above. These benefits are attributed to reductions in cancer risks associated with consuming chemically-contaminated fish. The valuation of benefits is based on estimates of society's willingness-to-pay to avoid the risk of cancer associated with consuming chemically-contaminated fish. Little data, however, is available regarding both dose-response relationships for non-cancer systemic health outcomes and the monetary value of avoiding such health outcomes. As a result, it was not possible to monetize the systemic health effects that might be associated with exposures to pollutants emanating from the MP&M industry such as reproductive, immunological, neurological, or circulatory problems.

To value mortality, EPA used a range of values recommended by EPA's Office of Policy Analysis from a review of studies quantifying individuals' willingness to pay to avoid increased risks to life (Fisher, Chestnut, and Violette, 1989; and Violette and Chestnut, 1986). The reviewed studies used hedonic wage or contingent valuation analyses in labor markets to estimate the amounts that individuals would be willing to pay to avoid slight increases in risk of mortality (i.e., the question analyzed in these studies is: how much more must a worker be paid to accept an occupation with a slightly higher risk of mortality?). The willingness-to-pay values estimated in these studies are associated with small changes in the probability of mortality; to estimate a willingness-to-pay value for avoiding certain or high probability mortality events, they are extrapolated to the value for a 100 percent probability event. The resulting estimates of the value of a ''statistical life saved'' are used in analyses such as this regulatory analysis to value regulatory effects that are expected to reduce the incidence of mortality. From this review, the Office of Policy Analysis recommended a range of $1.6 to $8.5 million (1986 dollars) for valuing an avoided event of premature mortality or a statistical life saved. For this analysis, EPA adjusted the recommended figures to 1994 using the relative change in nominal Gross Domestic Product from 1986 to 1994 (57.2 percent) to account for increases in society's willingness to pay to avoid risk of mortality as national income increases. Updating to 1994 yields a range of $2.5 to $13.4 million. For this analysis, the low-point of the range is used as a ''low'' estimate while the top of the range is used as a ''high'' estimate. For the proposed Option 2a/2, the benefits associated with reduced incidence of cancer from fish consumption are estimated to range from $6.8 million to $36.2 million per year ($1994), depending on the choice of willingness-to-pay value that is used to value the avoided cancer events. Although EPA estimated the change in cancer risk resulting from reduced exposure to MP&M pollutants via the drinking water pathway, these effects were not included in the monetary estimate of benefits because EPA has published drinking water criteria for the four pollutants for which the cancer analysis was completed. Thus, the total estimated value for human health benefits ranges from $6.8 million to $36.2 million per year ($1994).

b. Valuation of Enhanced Recreational Fishing Opportunities

EPA also estimated the value of enhanced recreational fishing opportunities. This valuation provides a limited measure of the value to society of improvements in aquatic habitats that are used for recreational purposes. The estimate of benefits is limited because it focuses on only one mechanism, enhanced recreational fishing, by which society may value improved aquatic habitats; it ignores other recreational effects as well as valuation mechanisms that are separate from recreation.

EPA calculated the value of enhanced recreational fishing opportunities by first estimating the baseline value of those fisheries in which all instances in which AWQCs are exceeded would be eliminated. Second, EPA estimated the value of improving the water quality in these fisheries based on the incremental value to anglers of eliminating all contaminants from a fishery (Lyke, 1992). Estimates of the increase in value of recreational fishing to anglers range from $23.6 million to $84.3 million annually ($1994).

c. Reduced Costs to POTWs in Managing and Disposing of Sewage Sludge

On the basis of the estimated reduced contamination of sewage sludge, EPA estimated that 184 POTWs will be able to select the lower-cost land application methods for sewage sludge disposal. The cost savings associated with the selection of lower cost sewage sludge management and disposal methods are

[12] Industrial sludge'' which results from the operation of treatment systems at MP&M facilities, will increase both in quantity and in level of contamination as a result of the proposed regulation. The cost of managing and disposing of this industrial sludge is included in the estimated costs of regulatory compliance used in the economic and regulatory impact analyses.

estimated to range from $39.1 to $86.0 million annually ($1994).

d. Total Estimated Value of Benefits

For the proposed regulatory option, total benefits for the three categories for which monetary estimates were possible range from $69.6 to $206.5 million annually. As noted above, this benefit estimate is necessarily incomplete because it omits numerous mechanisms by which society is likely to benefit from reduced effluent discharges from the MP&M industry. Examples of benefit categories not reflected in this estimate include: non-cancer related health benefits, other water dependent recreational benefits, existence and option values, and benefits to wildlife and endangered species.

4. Limitations and Uncertainties Associated With Estimating Benefits

The estimation of benefits is inevitably incomplete in that only a small set of the categories by which the proposed regulation is expected to generate benefits are able to be quantified and monetized. Beyond this broad and overriding limitation to the assessment of benefits, the methodologies used to assess the benefit categories that were quantitatively analyzed and for which monetary values were estimated also involve significant simplifications and uncertainties. Whether these simplifications and uncertainties are likely to lead to an understatement or overstatement of the estimated economic values for the benefit categories that were analyzed is uncertain. Several of these simplifications and uncertainties are noted below.

The methodology used to estimate water quality criteria excursions assumes that MP&M facilities are the only source of each of the regulated pollutants in the waterbody; the methodology does not incorporate background contributions either from other upstream sources or, in the case of water quality criteria, contaminated sediments due to previous discharge practices. Furthermore, although the discharge of these contaminants may cease or be minimized, sediment contamination and subsequent accumulation of the regulated pollutants in aquatic organisms may continue for years. Actual water quality improvements, in terms of eliminating excursions above criteria may, therefore, be over- or under-estimated depending on the relative magnitude of background contributions of regulated pollutants.

In this analysis, the estimates of human health and ecological benefits are based on the estimated changes in in-stream concentrations of regulated pollutants. In-stream concentrations under baseline conditions and under the proposed option are modeled for all waterbodies to which MP&M facilities discharge. Certain data underlying these analyses are site specific, including: flow rates under average and low flow conditions, and flow depth. However, other basic assumptions in the model are not site specific, including: chemistry of the water body, mixing processes, longitudinal dispersion, flow geometry, suspension of solids and reaction rates. Where these assumptions differ from actual conditions, modeled results will approximate in-stream concentrations with varying degree of accuracy. The effect of these assumptions on benefit estimates, however, is indeterminate.

In the analysis of benefits associated with consumption of fish taken from affected waterways, EPA estimated the exposed population—that is, the population expected to fish an affected waterway—from county fishing license and fishing activity data. Some data are specific to the counties in which MP&M sample facilities are located; however, for some counties in which MP&M facilities are located, it was necessary to estimate fishing population and activity rates from state-level data or from data for nearby counties or states (see Chapter 9 of the RIA for a detailed description of this methodology). These approaches are necessarily approximations and may lead to an over- or underestimates of the exposed population. The effect of these estimation procedures on the benefits estimate, however, is not known.

A related issue involves the assumption made regarding the number of subsistence fishermen in the exposed population. In this analysis, subsistence fishermen are assumed to account for an additional 5 percent of the fishing population. The magnitude of subsistence fishing in the United States or in individual states, however, is not known. As a result, this estimate may understate or overstate the actual number of subsistence fishermen.

Finally, recreational fishing benefits are based on the assumption that anglers place the same value on reducing concentrations of MP&M pollutants to levels considered protective of aquatic life as they do on eliminating all contaminants from a fishery. While the former level of pollutant reduction is assumed to be protective of aquatic life, some level of contamination would still exist in a fishery. As such, benefits of recreational fishing may be overstated.

EPA acknowledges the unavoidable uncertainty associated with estimating benefits. EPA believes that it has used the best methodology available for estimating benefits. EPA is soliciting comments on the reliability and accuracy of the methods used and suggestions on alternative methods which could be used for the final rule (see Section XIX).

*C. Costs To Society*

The social costs of regulatory actions are the opportunity costs to society of employing scarce resources in pollution control activity. The social costs of regulation include both monetary and non-monetary outlays made by society. Monetary outlays include private-sector compliance costs, government administrative costs, and other adjustment costs, such as the cost of relocating displaced workers. Non-monetary outlays, some of which can be assigned monetary values, include losses in consumers' and producers' surpluses in affected product markets, discomfort or inconvenience, loss of time, and a slowdown in the rate of innovation.

For this analysis, EPA based its estimate of the cost to society on the following components of social cost: the cost of society's economic resources for achieving compliance with the proposed regulatory option; the cost to governments of administering the proposed regulation; the cost of administering unemployment programs for job losses resulting from regulation; and worker dislocation costs.

1. Resource Cost of Compliance

The chief component of the estimated annual social cost is the cost of complying with the proposed regulation. The portion of this cost that is expected *to be borne directly by the MP&M Phase I industries* amounts to $160.6 million ($1994). This amount is the same as that used for the facility impact analysis and reflects the cost of pollution prevention and treatment systems needed to achieve compliance with the proposed discharge limitations (see Section XIV. D. and E.). In addition, this amount reflects the expected tax treatment of capital outlays and annual expenses and is also based on private costs of capital. However, as discussed in the introduction to this section, the appropriate measure of cost of compliance to society will omit these tax effects and will also reflect the opportunity cost of capital to society or social discount rate. The combined effect of these adjustments is to add an estimated $29.7 million to the estimated private industry cost of the regulation, bringing the cost of compliance to society to $190.3 million ($1994). This

amount may be interpreted as the value of society's productive resources—including labor, equipment, and other material—that is needed annually to achieve the reductions in effluent discharges specified by the proposed regulatory option.

2. Cost of Administering the Proposed Regulation

In addition to the resource costs for achieving effluent discharge reductions, EPA also estimated the cost to all levels of governments for administering the proposed regulation. The main component of this administrative cost category is the cost of labor and material resources for writing permits under the regulation and for compliance monitoring and enforcement activities. EPA estimates that these costs will range from $2.1 to $3.4 million ($1994) annually.

3. Cost of Unemployment

To account for the total social cost of unemployment, EPA estimated the cost of worker dislocation (exclusive of cash benefits) to the individual as well as the additional cost to governments to administer unemployment benefits. The cost of worker dislocation is estimated based on incremental willingness-to-pay to avoid job dislocation in a hedonic wage framework. This framework has been used in the past to impute a trade-off between wages and job security (Topel, 1984, Adams, 1985). Specifically, this estimate approximates a one-time willingness-to-pay to avoid an involuntary episode of unemployment and reflects all monetary and non-monetary impacts of involuntary unemployment incurred by the worker. It does not include any offsets to the cost of unemployment such as unemployment compensation or the value of increased leisure time.

For the MP&M industry, the implied one time statistical cost of an involuntary layoff is estimated at $83,000 to $110,000 ($1994). To calculate the annual cost of employment displacement for the proposed regulatory option, EPA annualized this value over the 15-year analysis period at a social opportunity cost of deferred consumption of three percent and multiplied the resulting annual value by the total number of displaced workers (698 FTEs) estimated in the facility impact analysis. In the labor requirements analysis (see Section XIV.E, above), EPA estimated that the demand for labor for compliance with the proposed regulation would exceed the estimated loss in employment from facility closures. As a result, when the total number of displaced workers is adjusted to account for compliance-related labor demand, the net loss in employment is negative. For this analysis, EPA considered a range of cost for displaced workers with the high end of the range based on the cost of worker displacement considering only the job losses in estimated facility closures and with the low end of the range set at zero. Setting the low end of the range at zero recognizes that labor demands for compliance may equal or exceed job losses but, to be conservative, does not enter a negative cost based on the possible net reduction in unemployment resulting from the regulation. On this basis, EPA estimated that annualized worker displacement costs for the proposed regulation would range from zero to $6.6 million.

Unemployment as the result of regulation may also impose costs to society through the additional administrative burdens placed on the unemployment system (the cost of unemployment benefits per se is not a social cost but instead a transfer payment within society). Administrative costs include the cost of processing unemployment claims, retraining workers, and placing workers in new jobs. Using data from the Interstate Conference of Employment Security Agencies, EPA estimated that the per unemployed worker cost of administering unemployment programs for job losses amounts to approximately $100 per job loss. Multiplying this figure by the 698 job losses and annualizing the result over the 15-year analysis period yields an annual unemployment administration cost of less than $10,000 per year. Again, considering that the net employment loss from the regulation may be negative, EPA used a range of from zero to $10,000 for the additional annual cost of unemployment administration.

Summing across all social costs results in a total social cost estimate of $192.4 to $200.3 million annually ($1994). These social cost estimates do not include losses in consumers' and producers' surpluses resulting from the change in quantity of goods and services sold in affected product markets. However, under the zero-cost-pass-through framework in which compliance costs have been tallied, MP&M industry product prices are assumed not to increase as a result of the proposed regulation. In this case, the estimated resource costs of compliance will approximate the loss in producers' surplus and, with no increase in prices, consumers' surplus will not change.

*D. Benefit-Cost Comparison*

Because not all of the benefits resulting from the proposed regulatory alternative can be valued in dollar terms, a complete cost-benefit comparison cannot be performed. The social cost of the proposed rule is estimated at $192.4 to $200.3 million annually ($1994). The sum total of benefits that can be valued in dollar terms ranges from $69.6 million to $206.5 million annually ($1994).

As shown in Table 22, combining the estimates of social benefits and social costs yields a net monetizable benefit ranging from negative $130.7 million to positive $14.1 million annually. This assessment of the relationship between costs and benefits is subject to severe limitations on the ability to estimate comprehensively the expected benefits of the proposed regulation. If all of the benefits of regulation could be quantified and monetized, EPA estimates that in all likelihood the benefits of regulation would exceed the social costs.

TABLE 22.—COMPARISON OF NATIONAL ANNUAL MONETIZABLE BENEFITS TO COSTS FOR EFFLUENT LIMITATION GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY INDUSTRY, PHASE I

[Millions of 1994 dollars]

| Benefit and cost categories | Dollar value |
|---|---|
| Benefit Categories: | |
| Human Health Benefits: Fish Consumption | $6.8–$36.2 |
| Human Health Benefits: Water Consumption | 0.0–0.0 |
| Recreational Fishing Benefits | 23.6–84.3 |
| Avoided Sewage Sludge Disposal Costs | 39.1–86.0 |
| Total Estimated Benefits | 86.4–208.9 |
| Cost Categories: | |

TABLE 22.—COMPARISON OF NATIONAL ANNUAL MONETIZABLE BENEFITS TO COSTS FOR EFFLUENT LIMITATION GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY INDUSTRY, PHASE I—Continued

[Millions of 1994 dollars]

| Benefit and cost categories | Dollar value |
|---|---|
| Cost to Industry for the Proposed Regulatory Option | 160.6 |
| Adjustments for Tax Code and Use of Social Discount Rate | 29.7 |
| Costs of Administering the Proposed Regulation | 2.1–3.4 |
| Unemployment Administration and Worker Displacement Costs | 0.0–6.6 |
| Total Social Cost | 192.4–200.3 |
| Net Benefits (Benefits less Costs) | *($130.7)–$14.1 |

*For calculating the range of net benefits, the low net benefit value is calculated by subtracting the high value of costs from the low value of benefits. The high net benefit value is calculated by subtracting the low value of costs from the high value of benefits.

Source: U.S. Environmental Protection Agency.

## XVI. Water Quality and Other Environmental Benefits of Proposed Rule for the Metal Products and Machinery (MP&M) Industry

The U.S. Environmental Protection Agency (EPA, Agency) evaluated the environmental benefits of controlling the discharges of toxic and nonconventional pollutants from metal products and machinery (MP&M) facilities (Phase 1) to surface waters and publicly-owned treatment works (POTWs) in national analyses of direct and indirect discharges. Discharges of these pollutants into freshwater and estuarine ecosystems may alter aquatic habitats, adversely affect aquatic biota, and adversely impact human health through the consumption of contaminated fish and water. Furthermore, these pollutants may also interfere with POTW operations in terms of inhibition of activated sludge or biological treatment and contamination of sludges, thereby limiting the method of disposal. Many of these pollutants have at least one toxic effect (human health carcinogen and/or systemic toxicant or aquatic toxicant). In addition, many of these pollutants bioaccumulate in aquatic organisms and persist in the environment. Various studies demonstrate the environmental impact of discharges from MP&M facilities on aquatic life, human health, and the quality of receiving waters and sediments. The National Sediment Contaminant Point Source Inventory ranks MP&M as one of the largest ongoing sources of potentially toxic pollutants to sediment (nearly 10 percent of the total load of potential sediment contaminants from point sources). Forty-six (46) direct MP&M facilities are identified by States as being point sources causing water quality problems and are included on their 304(l) Short List. Cases of human health impacts (production worker exposure); aquatic life impacts (lethal and sublethal); a State fish consumption advisory; and contamination of surface waters, ground water, and sediments are also documented.

EPA evaluated the effects of direct wastewater discharges on receiving stream water quality at current levels of treatment and at proposed BAT treatment levels. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria or to documented toxic effect levels for those chemicals for which EPA has not published water quality criteria. EPA performed this analysis for a representative sample set of 55 direct facilities discharging 61 pollutants to 55 receiving streams. This set of 55 facilities includes 12 facilities that currently are both direct and indirect dischargers, but are projected to become solely indirect dischargers at the proposed option. However, the set of 55 facilities excludes four facilities that EPA's cost model predicts to close based on current economic conditions. EPA then extrapolated the results of this analysis to the entire population of direct MP&M facilities nationwide (approximately 2,035 facilities discharging to 2,035 receiving streams) with each sample facility representing a varying number of additional facilities of the same approximate size engaged in similar activities under similar economic conditions.

In-stream concentrations for two pollutants are projected to exceed human health criteria (developed for consumption of water and organisms) in 6 percent of the receiving streams nationwide at current discharge levels. The proposed BAT regulated discharge levels will reduce the excursions of human health criteria to 2 percent of the receiving streams. The percentage of receiving streams nationwide with in-stream pollutant concentrations projected to exceed chronic aquatic life criteria or toxic effect levels will be reduced from 9 percent at current discharge levels to 4 percent at proposed BAT discharge levels. Thirty-nine (39) pollutants at current and six pollutants at BAT discharge levels are projected to exceed in-stream chronic aquatic life criteria or toxic effect levels. These projected water quality benefits are achieved through a 17 percent reduction in current direct loadings for the 61 evaluated pollutants by the proposed BAT regulatory option. Including loadings of oil and grease and total suspended solids (TSS), current pollutant loadings are reduced 36 percent by the proposed BAT regulatory option. Current pollutant loadings (including all conventional pollutants) are also reduced 36 percent by the proposed BAT regulatory option.

EPA also evaluated the effects of POTW wastewater discharges of 61 pollutants on receiving stream water quality at current and proposed pretreatment levels for a representative sample of 307 indirect discharging MP&M facilities. This set of 307 facilities includes 10 facilities that currently are both direct and indirect dischargers, but are projected to become solely direct dischargers at the proposed option. As with the direct dischargers, the set of 307 facilities excludes 52 facilities that EPA's cost model predicts to close based on current economic conditions. These 307 facilities discharge to 264 POTWs with outfalls located on 249 receiving streams. EPA extrapolated the results to a nationwide population of approximately 7,387 facilities which discharge to 7,016 POTWs on 6,864 receiving streams using the same facility weighting approach described above for the direct dischargers. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria or to documented toxic

effect levels for those chemicals for which EPA has not published water quality criteria.

EPA projects that in-stream concentrations of five pollutants will exceed human health criteria (developed for consumption of water and organisms) in 7 percent of the receiving streams nationwide at current discharge levels. The proposed pretreatment regulatory option reduces excursions of human health criteria to three pollutants at 5 percent of the receiving streams nationwide. The percentage of receiving streams with in-stream pollutant concentrations projected to exceed chronic aquatic life criteria or toxic effect levels are reduced from 8 percent at current discharge levels to 3 percent at the proposed pretreatment. A total of 19 pollutants at current and ten pollutants at proposed pretreatment levels are projected to exceed in-stream aquatic life criteria or toxic effect levels. Current loadings of the 61 pollutants evaluated for water quality impacts are reduced 32 percent by the proposed pretreatment regulatory options. Including oil and grease and TSS, current pollutant loadings are reduced 50 percent by the proposed pretreatment regulatory options. Including all conventional pollutants, current pollutant loadings are also reduced 50 percent by the proposed pretreatment regulatory options.

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sludge at the 7,016 POTWs that receive wastewater from the national projected population of 7,387 indirect discharging MP&M facilities. Inhibition of POTW operations is estimated by comparing predicted POTW influent concentrations to available inhibition levels. Potential contamination of sludge is estimated by comparing projected pollutant concentrations in POTW sludge to available EPA sludge criteria. EPA evaluated 37 pollutants for potential POTW operation inhibition and nine pollutants for potential sludge contamination. At current discharge levels, EPA projects inhibition problems at 16 percent of the POTWs nationwide caused by 11 different pollutants. At the proposed pretreatment, EPA projects inhibition problems at 15 percent of the POTWs nationwide caused by six pollutants. The Agency projects sludge contamination at 13 percent and 9 percent of the POTWs nationwide at current and proposed pretreatment regulatory option levels, respectively. EPA projects that all nine evaluated pollutants at current and proposed pretreatment levels exceed sludge criteria levels.

For the analysis of contamination of sewage sludge EPA included other industrial discharges in the sewage sludge model. EPA evaluated the benefits of reducing contamination of sludge in its analysis of projected POTW sludge disposal practices at current and proposed pretreatment levels. EPA performed analyses for a representative sample set of 80 POTWs with projected sludge contamination limiting its use for land application, and extrapolated to a nationwide population of 1920 POTWs. Under the proposed pretreatment regulatory option, 184 of the facilities will shift into qualifying for land application of sewage sludge. Land application quality sludge meets ceiling pollutant concentration limits, class B pathogen requirements, and vector attraction reduction requirements. Because costs for land application tend to be lower than those for other disposal methods, this shift away from incineration, co-disposal, and surface disposal results in a cost savings.

The POTW inhibition and sludge values used in this analysis are not, in general, regulatory values. EPA based these values upon engineering and health estimates contained in guidance or guidelines published by EPA and other sources. Therefore, EPA does not intend to base its regulatory approach for proposed pretreatment discharge levels upon the finding that some pollutants interfere with POTWs by impairing their treatment effectiveness or causing them to violate applicable limits for their chosen disposal methods. However, the values used in this analysis help indicate the potential benefits for POTW operations and sludge disposal that may result from the compliance with proposed pretreatment discharge levels.

## XVII. Non-Water Quality Environmental Impacts

Sections 304(b) and 306 of the Act require EPA to consider non-water quality environmental impacts (including energy requirements) associated with effluent limitations guidelines and standards. In accordance with these requirements, EPA has considered the potential impact of the proposed regulation on energy consumption, air emissions, and solid waste generation. The Agency has also considered the impacts of other ongoing EPA rulemaking efforts on MP&M Phase I sites.

This regulation was reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance environmental impacts across all media and energy use, the Agency has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

### *A. Air Pollution*

The Agency believes that the in-process and end-of-pipe technologies included in the technology options for this regulation do not generate air emissions.

The Agency is developing National Emission Standards for Hazardous Air Pollutants (NESHAPs) under section 112 of the Clean Air Act (CAA) to address air emissions of the hazardous air pollutants (HAPs) listed in Title III of the CAA Amendments of 1990. Current and upcoming NESHAPs that may potentially affect MP&M sites are listed below.

- Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- Halogenated Solvent Cleaning;
- Aerospace Manufacturing; and
- Miscellaneous Metal Parts and Products (Surface Coating).

These NESHAPs will define maximum achievable control technology (MACT). Like effluent guidelines, MACT standards are technology based. The CAA set maximum control requirements on which MACT can be based for new and existing sources.

The use of chlorinated solvents in the MP&M industry can create a source of hazardous emissions. The Agency believes this regulation will not affect the use of chlorinated solvents in the MP&M industry. This regulation neither requires nor discourages the use of aqueous cleaners in lieu of chlorinated solvents.

EPA is addressing emissions of volatile organic compounds (VOCs) from industrial waste water through a Control Techniques Guideline (CTG) for industrial waste water under section 110 of the CAA (Title I of the 1990 CAA Amendments). The MP&M industry is one of several industries that would be covered by the industrial waste water CTG. The industrial waste water CTG will provide guidance to states in recommending reasonably available control technologies (RACT) for VOC emissions from industrial waste water at sites located in areas failing to attain the National Ambient Air Quality Standard for ozone.

### *B. Solid Waste*

Solid waste generation includes hazardous and nonhazardous waste water treatment sludge as well as waste

oil removed in waste water treatment. EPA estimates that compliance with this regulation will result in a decrease in waste water treatment sludge and an increase in waste oil generated at MP&M Phase I sites.

EPA estimates that MP&M Phase I sites generated 33 million gallons of waste water treatment sludge and 8.1 million gallons of waste oil in 1989 from the treatment of waste water. The amount of waste water treatment sludge and waste oil expected to be generated at each of the technology options is presented in Table 23.

TABLE 23.—WASTE TREATMENT SLUDGE AND OIL GENERATION BY OPTION

| Option | Waste water treatment sludge generated (million gallons/year) | Waste oil generated (million gallons/year) |
|---|---|---|
| Baseline (1989) . | 33 | 8.1 |
| Option 1 ..... | 31 | 38 |
| Option 2 ..... | 21 | 36 |
| Option 3 ..... | 21 | 36 |

Source: U.S. Environmental Protection Agency.

As shown in Table 23, waste water treatment sludge generation decreased from baseline to Option 1 (which consists of end-of-pipe treatment without in-process flow control). The net decrease is attributed to the fact that Option 1 includes sludge dewatering, which may result in a significant decrease in sludge generation for sites that have chemical precipitation and settling technologies without sludge dewatering in place at baseline. Sludge reduction is not expected at sites which already have sludge dewatering in the baseline. An increase of sludge is expected to occur at sites which do not have treatment in place but are expected to install treatment under the MP&M options.

The sludge reduction from Option 1 to Option 2 is attributed to the water conservation and pollution prevention technologies included in Option 2. EPA expects these technologies to result in sludge reduction for the following reasons:

—In-process metals recovery for electroplating rinses, recycling of coolants, and recycling of paint curtains reduce the mass of metal pollutants in treatment system influent streams, which in turn reduces the amount of sludge generated during metals removal;

—Bath maintenance practices included in Option 2 reduce the mass of metal pollutants discharged to treatment, which in turn reduces the amount of sludge generated during metals removal; and

—Water conservation technologies included in Option 2 reduces the discharge mass of metals present in the source water to a site (e.g., calcium, sodium), which in turn reduces the amount of sludge generated during removal of these metals.

EPA does not expect Option 3 to result in additional sludge generation or reduction over Option 2.

Sludges generated at MP&M sites are often determined to be hazardous under the Resource Conservation and Recovery Act (RCRA) as either a listed or characteristic waste based on the following information:

- If the site performs electroplating operations, and this waste water is mixed with the other waste water treated on site, the resulting sludge is a listed hazardous waste F006 (40 CFR 261.31), or
- If the sludge or waste oil from waste water treatment exceeds the standards for the Toxicity Characteristic Leaching Procedure (i.e. is hazardous), or exhibits other RCRA-defined hazardous characteristics (i.e., reactive, corrosive, or flammable) it is considered a characteristic hazardous waste. (40 CFR 261.24).

Additional federal, state, and local regulations may result in MP&M sludges being classified as hazardous wastes. Determinations on whether a waste is hazardous are made by permitting authorities on a case-by-case basis.

Based on information collected during site visits and sampling episodes, the Agency believes that some of the solid waste generated would not be classified as hazardous. However, for purposes of compliance cost estimation, the Agency assumed that all solid waste generated as a result of the technology options would be hazardous.

The increase in waste oil generation from baseline to Option 1 is attributed to removal of oil from MP&M waste waters prior to discharge to POTWs or surface waters. Option 1 includes oil-water separation for oil-bearing waste waters. This technology removes oil from the waste water. The waste oil is usually either recycled on site or off site, or contract hauled for disposal as either a hazardous or nonhazardous waste. The increase of waste oil generation reflects a transfer of oil from the waste water to a more concentrated waste oil, and does not reflect an increase in overall oil generation at MP&M Phase I sites. For the purpose of compliance cost estimation, EPA assumed that all waste oil was contract hauled for disposal; however, EPA expects that some of the waste oil can be recycled either on site or off site.

The decrease in waste oil generation from Option 1 to Option 2 is attributed to the 80% reduction of coolant discharge using the recycling technology included in the Option 2 technology train. This system recovers and recycles oil-bearing machining coolants at the source, reducing the generation of spent coolant.

EPA does not expect Option 3 to result in additional waste oil generation or reduction over Option 2.

The in-process technologies of ion-exchange/and electrolytic recovery included in both Options 2 and 3 provide the pollution prevention benefits of reclaiming 1.7 million pounds of metal annually. This reuse reduces the solid waste generation at the end-of-pipe for the treatment of waste water from operations using these technologies. In addition, as stated above, the rule is expected to reduce metal contaminants in the sludges generated by POTWs. This is expected to allow POTWs to dispense of the lower metal content sludge by more environmentally beneficial methods (See Section XV).

*C. Energy Requirements*

EPA estimates that compliance with this regulation will result in a net increase in energy consumption at MP&M Phase I sites. Estimates of increased energy usage by option are presented in Table 24. Option 1 requires the greatest energy usage. The in-process flow control and recycling technologies included in Option 2 reduce the amount of water use. While these technologies require some energy, net energy consumption is reduced under Option 2 since the reduced hydraulic loading reduces the end-of-pipe treatment energy required. This results in an overall decrease in energy requirements from Option 1 to Option 2. The additional end-of-pipe technology included in Option 3 (ion-exchange) increases energy consumption from Option 2 to Option 3.

TABLE 24.—ENERGY REQUIREMENTS BY OPTION

| Option | Energy required (million kilowatt hrs/yr) |
|---|---|
| Baseline (1989) ..... | 610 |
| Option 1 ..... | 810 |
| Option 2 ..... | 740 |
| Option 3 ..... | 760 |

Source: U.S. Environmental Protection Agency.

By comparison, 2,805 billion kilowatt hours of electric power were generated in the United States in 1990. Additional energy requirements for Option 1 (which has the greatest energy

requirements) correspond to approximately 0.007 percent of national requirements. The increase in energy requirements due to the implementation of MP&M technologies will in turn cause an air emissions impact from the electric power generation facilities. The increase in air emissions is expected to be proportional to the increase in energy requirements or approximately 0.007 percent.

## XVIII. Regulatory Implementation

### *A. Upset and Bypass Provisions*

A ''bypass'' is an intentional diversion of the streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR §§ 122.41(m) and (n).

### *B. Variances and Modifications*

The CWA requires application of effluent limitations established pursuant to section 301 or pretreatment standards of section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines and pretreatment standards for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. *Fundamentally Different Factor Variances.* EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with respect to factors considered in establishing the limitation of standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation provided for the FDF modifications from the BPT effluent limitations, BAT limitations for toxic and non-conventional pollutants and BCT limitations for conventional pollutant for direct dischargers. For indirect dischargers, EPA provided for modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. *Chemical Manufacturers Assn* v. *NRDC,* 479 U.S. 116 (1985).

Subsequently, in the Water Quality Act of 1987, Congress added new section 301(n) of the Act explicitly to authorize modifications of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under Section 301(n), an application for approval of FDF variance must be based solely on 1) information submitted during rulemaking raising the factors that are fundamentally different or 2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and must not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125 subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR § 125.31(d) identifies six factors (e.g., volume of process waste water, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by the EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (e.g., infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b) (3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of Section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b) (1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by the EPA in establishing the applicable guidelines. The pretreatment regulation incorporate a similar requirement at 40 CFR 403.13(h) (9).

2. *Economic Variances.* Section 301(c) of the CWA authorizes a variance from the otherwise applicable BAT effluent guidelines for nonconventional pollutants due to economic factors. The request for a variance from effluent limitations developed from BAT guidelines must normally be filed by the discharger during the public notice period for the draft permit. Other filing time periods may apply, as specified in 40 CFR 122.21(1) (2). Specific guidance for this type of variance is available from EPA's Office of Waste Water Management.

3. *Water Quality Variances.* Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants due to localized environment factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

4. *Permit Modifications.* Even after EPA (or an authorized State) has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered in several circumstances. These could include a regulatory inspection or information submitted by the permittee that reveals the need for modification. Any interested person may request that a permit modification be made. There are two classifications of modifications; major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually any modification that results in less stringent conditions is treated as a major modifications, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described

in 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described in 40 CFR 122.63.

*C. Relationship to NPDES Permits and Monitoring Requirements*

The BPT, BAT and NSPS limitations in today's proposed rule would be applied to individual MP&M Phase I plants through NPDES permits issued by EPA or approved State agencies under section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except when variances and modifications are expressly authorized. This section adds more detail on the relationship between this regulation and NPDES permits.

One issue is how this regulation will affect the powers of NPDES permit-issuing authorities. EPA has developed the limitations and standards in the proposed rule to cover the typical facility for this point source category. This regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guideline, or policy.

Even if a facility is totally without waste water discharge, an NPDES permit may be requested by the facility to provide upset provisions which would not apply to discharge in the absence of a permit.

Another concern is the operation of EPA's NPDES enforcement program, which was an important consideration in developing today's proposal. The Agency emphasizes that although the Clean Water Act is a strict liability statute, EPA can initiate enforcement proceedings at its discretion. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance.

*D. Best Management Practices*

Section 304(e) of the Act authorizes the Administrator to prescribe ''best management practices'' (BMPs). EPA may develop BMPs that apply to all industrial sites or to a designated industrial category and may offer guidance to permit authorities in establishing management practices required by unique circumstances at a given plant. Dikes, curbs, and other control measures are being used at some MP&M sites to contain leaks and spills as part of good ''housekeeping'' practices. However, on a facility-by-facility basis a permit writer may choose to incorporate BMPs into the permit.

## XIX. Solicitation of Data and Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address any perceived deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data where possible.

EPA particularly requests comments and information on the following issues:

1. Oil & Grease as Indicator for Organics. EPA believes that today's proposal of an oil and grease pretreatment standard as a indicator for specific organic pollutants will ensure that there is adequate treatment and removal of the organic pollutants found in MP&M waste water. The organic constituents originate in waste waters such as metal working fluids, corrosion prevention coating solutions, paints and solutions developed to clean the oils from the metal surface. EPA believes that treatment and removal of oil and grease will effectively remove the organics. Nonetheless, EPA's data are incomplete for all organics, and EPA can not predict what products may serve as substitutes for solvents that EPA is in the process of regulating under EPA's ozone depletion policy.

Further, in recognition of the present state of changeover occurring in the industry, it may be premature to set limits based on today's practices. Therefore, EPA at promulgation may defer control of organic waste water pollutants until the MP&M Phase II rule is proposed. EPA requests comments on the establishment of oil and grease as an indicator parameter for specific organics and on the current practices and where industry is moving with respect to solvent cleaners and their substitution in industrial processes. EPA is interested in available information about current substitutions and their effectiveness.

2. Flow Cut-offs and Administrative Burden. EPA divided the population of existing indirect dischargers into two flow categories for the purpose of data analysis and implementation. The existing indirect discharger flow cut-off of 1,000,000 gallons per year was based on a careful review of the data. For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day.

This approach is in response to concerns raised by Control Authorities and Regional and state Pretreatment Coordinators regarding the burden that would be imposed on them, if they were required to establish mass-based discharge permits for all MP&M Phase I sites within a three-year period.

EPA requests comments on the proposed indirect discharger flow cut-off which was used to define the two flow categories established for PSES. EPA requests comments on the possibility of a different cut-off at 25,000 gallons per day to define large flow existing indirect discharger sites (25,000 gallons per day equals approximately 6,250,000 gallons per year). The 25,000 gallons per day figure is currently used by the Agency as one definition for a significant industrial user (SIU). EPA requests comments on revising the flow cut-off and requiring mass-based permits for existing sites indirectly discharging more than 25,000 gallons per day. Existing indirect sites discharging less than 25,000 gallons per day could be exempt or covered by concentration based limits. Tables 25 and 26 compare the distribution of total annual flow and pollutant loadings discharged from MP&M Phase I indirect discharging sites using the 25,000 gallons per day (6,250,000 gallons per year) cut off to the distribution using the 1,000,000 gallons per year cut off.

TABLE 25.—ESTIMATED DISTRIBUTION OF INDIRECTLY DISCHARGING SITES BY BASELINE FLOW AND LOAD [a]

| Flow Range (gal/yr/site) | Estimated No. of sites | Estimated total flowin range (millions of gal/year) | Estimated total load in range (millions of lbs/year) | Estimated percent of total sites | Estimated percent of total flow | Estimated percent of total load |
|---|---|---|---|---|---|---|
| 0-6,250,000 | 8,065 | 4,600 | 550 | 93 | 23 | 38 |
| Greater than 6,250,000 | 641 | 15,000 | 900 | 7 | 77 | 62 |
| Totals | 8,706 | 19,000 | 1,400 | 100 | 100 | 100 |

Source: U.S. Environmental Protection Agency.

[a] An estimated 364 MP&M sites discharged both directly and indirectly in the baseline. In order to evaluate indirect and direct discharges separately, the expected post compliance discharge status was used to assign these sites to either direct or indirect for the purpose of this table. The assignment was based on technical factors which are included in the public record.

TABLE 26.—ESTIMATED DISTRIBUTION OF INDIRECTLY DISCHARGING SITES BY BASELINE FLOW AND LOAD [a]

| Flow range (gal/yr/site) | Estimated No. of sites | Estimated total flow in range (millions of gal/year) | Estimated total load in range (millions of lbs/year) | Estimated percent of total sites | Estimated percent of total flow | Estimated percent of total load |
|---|---|---|---|---|---|---|
| Less than 1,000,000 | 6,708 | 744 | 138 | 78 | 4 | 10 |
| Greater than 1,000,000 | 1,998 | 18,000 | 1,300 | 22 | 96 | 90 |
| Totals | 8,706 | 19,000 | 1,400 | 100 | 100 | 100 |

Source: U.S. Environmental Protection Agency.

[a] An estimated 364 MP&M sites discharged both directly and indirectly in the baseline. In order to evaluate indirect and direct discharges separately, the expected post compliance discharge status was used to assign these sites to either direct or indirect for the purpose of this table. The assignment was based on technical factors which are included in the public record.

EPA also requests comments from Control Authorities and Pretreatment Coordinators regarding the burden alleviated by this proposal. Specifically, how many labor hours are estimated to be saved by the proposed exemption, and how much money would be saved by municipalities.

EPA understands that accurate flow measurement can be difficult and costly, especially at sites with widely varying flow rates and at sites with very low flow rates. Therefore, EPA also solicits comments on the accuracy and cost of available flow monitoring devices.

EPA also solicits comments, particularly from Control Authorities or Pretreatment Coordinators, on whether the proposed approach would be harmful to the environment. Specifically, is there evidence that some of the sites that would be exempt are currently causing problems at POTWs? Secondly, would mass-based requirements alleviate the problem?

3. Exemption of Low Discharge Volume Indirect Sources. EPA is soliciting comments on proposed exemption of existing low discharge volume indirect sources from the MP&M Phase I categorical pretreatment standards.

EPA considered a number of different flow cutoffs that could be used for the proposed exemption The number of sites which discharge less than 1,000,000 gallons per year and their contribution to the waste water discharge flow rate from the MP&M category (only 4%of the total) are provided in Table 26. Instead of the 1,000,000 gallons per year flow cutoff, other flow cutoffs could be used. For a site operating 250 days per year, 1,000,000 gallons per year would translate into 4,000 gallons per day.

As an alternative to exempting existing low discharge volume indirect discharges, EPA could reduce the 40 CFR part 403 requirements on frequency of monitoring and reporting by industrial users and frequency of inspections and testing by the Control Authorities for these sites. If the requirements of 40 CFR part 403 were reduced instead of exempting low volume dischargers, this change could be tied to certain objective criteria (e.g. demonstrated compliance over time). EPA solicits comments on whether monitoring and inspections should be required more frequently in situations of continued non-compliance, planned expansion, etc.

EPA solicits comments and data on the environmental impact the proposed exemption would cause. EPA also solicits comments and data on the burden imposed on Control Authorities by the possible inclusion of these low discharge volume sites under this rule.

Finally, EPA solicits comments on the proposed exemption of low discharge volume indirect dischargers in relation to possible changes to the Clean Water Act that may reflect on the Domestic Sewage Exclusion provided for under RCRA section 1007 [27] (40 CFR 261.4 (a)(1)). In the bill before the last Congress to amend the Clean Water Act, the Agency took the position that the Domestic Sewage Exclusion provisions should be limited and apply only under the following conditions:

1. the source and wastestream are subject to or are scheduled to be subject to a categorical pretreatment standard;

2. the pollutant and source are subject to a technically based local limit developed by a POTW, or a technology based local limit developed by EPA or a State;

3. the waste is generated in de minimis amounts by a household or similar non-commercial entity; or

4. the source and wastestream are covered by a Toxicity Reduction Action Plan (TRAP), as defined by the statute.

Considering these conditions could be included in future amendments to the Clean Water Act, EPA solicits comments on the impact these amendments could have on proposed exemption of low discharge volume indirect dischargers.

4. Alternative to Mass-Based Compliance. EPA requests comments on an alternate compliance approach for large volume existing indirect dischargers under PSES. EPA is considering an alternate compliance approach for the existing indirect discharging large volume sites (sites defined in this proposal as having an annual discharge volume greater than 1,000,000 gallons). For a site operating 250 days per year, 1,000,000 gallons per year translates into an average discharge flow rate of 4,000 gallons per day. These sites would have to comply with a mass-based permit or choose the alternative of establishing compliance with the pretreatment standards by certifying in writing to the Control Authority that they have installed in-process technologies equivalent to those costed as the basis of the BPT Option 2 technology. The in-process control technologies of Option 2 include:

- Flow reduction using flow restrictors, conductivity meters, and/or timed rinses for all flowing rinses, plus countercurrent cascade rinsing for all flowing rinses;
- Flow reduction using bath maintenance for all other process water-discharging operations;
- Centrifugation and 100 percent recycling of painting water curtains;
- Centrifugation and pasteurization to extend the life of water-soluble machining coolants reducing discharge volume by 80%; and
- In-process metals recovery using ion exchange followed by electrolytic recovery of cation regenerants for selected electroplating rinses. This includes first-stage drag-out rinsing with electrolytic metal recovery.

EPA solicits comments on the list of in-process technologies above: should

additional in-process technologies be added, should any of the in-process technologies listed above not be included, would problems arise with how these technologies are defined, etc. If the alternative compliance approach is included in the final rule, the list of in-process technologies may differ somewhat from the list above based on public comment. EPA may include this approach of an alternate PSES requirement in the final rule and thus requests comments on this approach. EPA's purpose for offering this as an alternate compliance approach is to provide relief to Control Authorities from the burden associated with the development of mass-based permits. EPA is not proposing this alternative compliance approach, since a decision as to whether or not to offer this alternative will rely on comments and additional data as to the utility of such an approach.

Specifically, EPA encourages MP&M sites to offer comments regarding the technical feasibility of the in-process control measures that would be required to be eligible for the alternate compliance approach, as well as an estimate of the burden (in labor hours) associated with submitting a certification.

EPA also solicits comments from Control Authorities and Pretreatment Coordinators on the benefits and savings in time and manpower expected to be achieved whenever a site takes advantage of this alternate compliance approach. Comments should account for any burden associated with maintaining certifications and conducting inspections.

EPA has considered another option of requiring all indirect dischargers to comply with concentration-based permits and mandatory pollution prevention practices. Some Control Authorities have indicated a preference for this type of approach for ease of enforcement and implementation, therefore, EPA seeks comments on this option as well.

5. Cyanide Monitoring Waiver. Although cyanide is essential in many electroplating operations, the Agency is aware that some metal products and machinery plants do not use cyanide. In some existing regulations, this issue has been addressed by allowing plants to only monitor annually for cyanide if the annual waste water sample is below the regulatory long term average and if the plant owner or operator certifies in writing to the POTW authority or permit issuing authority that cyanide is not and will not be used on site. For example, see 40 CFR 467.03. For MP&M, the regulatory long term average for cyanide is 0.02 mg/l.

The Agency is soliciting comments on the possibility of including such a provision to allow plants to not monitor for cyanide. The comments should address the utility of this provision, the amount of unnecessary monitoring avoided, the economic impacts, the environmental impacts, and any other information relevant to the decision. EPA also solicits comments as to what form the certification should take and at what frequency it should be required.

6. Other Pollutant Monitoring Waivers. Similar to the alternate approach for cyanide discussed above, the Agency is also considering allowing sites to opt out from monitoring specific metals if the site can certify that the metal is not used in any way at their site. This may be restricted to metals such as cadmium, chromium and nickel, which are frequently plated onto a base metal or used in the surface treatment of metals. EPA solicits comments on this approach, specifically whether it should be limited to certain metals such as those mentioned, or whether it could apply to all regulated metal pollutants. EPA also solicits comments as to what form the certification should take and at what frequency it should be required.

7. Additional Unit Operations. EPA has identified 47 unit operations which are typically performed at MP&M sites. EPA requests comments on additional operations which may be performed at MP&M sites and which have not been listed in today's notice. Please specify whether these operations have a waste water stream associated with them, what is the estimated volume of the waste water, what is the frequency of the operation, and whether it is similar to any of the 47 operations already identified.

8. Assignment of Industrial Sectors. EPA has discussed the assignment of industrial sector to MP&M plants in today's notice and has provided several examples of how to assign sites to industrial sectors based on the products produced. EPA is soliciting comment from any industrial site which has the potential to be covered by MP&M but is uncertain as to their appropriate industrial sector and phase (MP&M Phase I or MP&M Phase II) classification. Sites are requested to supply information about what operations they are performing, what products they are manufacturing, rebuilding or maintaining, and to what industries they are selling their products or providing their services.

9. Possible Addition of Lead as Regulated Parameter. Lead is a regulated parameter under several existing metals regulations (e.g. metal finishing 40 CFR part 433), but lead was rarely found at treatable concentrations in the raw waste water, prior to treatment, at the sites sampled for MP&M Phase I. As a result, EPA is not proposing a lead limitation. EPA is considering collecting additional data or transferring data from the metal finishing category in order to regulate lead in the final MP&M Phase I regulation. If lead were regulated based on data transferred from the metal finishing rule, then the limits would be similar to those listed in metal finishing. The metal finishing daily maximum limit for lead is 0.69 milligrams per liter, and the monthly average limit for lead is 0.43 milligrams per liter. If lead were regulated based on the collection of additional data, then the MP&M Phase I lead limits could be lower than the lead limits in the metal finishing regulation. EPA is soliciting comments and data on the possibility of adding lead to the list of regulated parameters for MP&M Phase I. EPA is soliciting comments on the use of lead in the MP&M Phase I category (e.g. in what operations is lead used, how much is used, do these operations discharge process waste water, how prevalent are these operations, etc.).

10. Possible Addition of Other Regulated Parameters. The list of parameters which EPA proposes to regulate under MP&M Phase I are shown in Table 2 of this document. EPA is soliciting comments and data on additional parameters that should be considered for regulation. EPA is proposing a total cyanide limit for MP&M Phase I. In other rules such as metal finishing (40 CFR part 433), EPA has set a total cyanide limit and included an alternative amenable cyanide limit. EPA is soliciting comments on whether or not an amenable cyanide limit should be offered as an alternative to the proposed total cyanide limit.

11. Possible Deletion of Regulated Parameters. The list of parameters which EPA proposes to regulate under MP&M Phase I are shown in Table 2 of this document. EPA is soliciting comments and data on parameters that should be deleted from consideration for regulation.

12. Additional Technology Data. In this document, the Agency proposes a new source standard equivalent to BAT, in part because, given the available data, the Agency concludes there is no add-on technology that is cost-effective for the entire Metal Products and Machinery category suitable for a more stringent new source standard. However, the Agency solicits comments

on other technologies and pollution prevention techniques that may be appropriate and cost-effective for new sources in subcategories of the Metal Products and Machinery category.

For each technology or pollution prevention technique, the Agency is particularly interested in receiving data on: (1) Technology performance, including pollutant reduction/elimination and flow reduction/elimination; (2) economics, including initial capital investment, operation and maintenance costs, payback period, waste disposal savings, material input savings, and other savings; (3) overall energy use; (4) sludge generation, including metals recoverability and the ability of sludge to be recycled on or off-site; (5) applicability of a given technique across the whole MP&M Phase I population or across a particular MP&M sector, SIC code, or other industrial sector breakdown; and (6) air quality impacts and emissions. In addition, as some technologies and pollution prevention techniques eliminate or reduce discharges to water, but not to other media, the Agency solicits comments on the environmental impacts and regulatory costs associated with each technology's impact on other environmental media.

Specifically, the Agency solicits information and comments concerning the pollution prevention performance, cross-media environmental impacts, and economic effects associated with the following technologies and pollution prevention techniques, even if the technology can only be applied to a subcategory of the MP&M category:

(1) Ion Exchange;
(2) Electrodialysis / Electrowinning;
(3) Reverse Osmosis;
(4) Evaporation (low pressure, conventional);
(5) Diffusion dialysis;
(6) Conductive polymer films;
(7) Alternatives to electroplating (e.g. powder coating, aqueous soaks, ultrasonics);
(8) Flow-through barrel plating; and
(9) Micro-filtration.

The Agency particularly welcomes comments on technology performance and cost from technology vendors and developers, in addition to comments from industrial users.

13. Technical Assistance. The Agency is soliciting comments on the degree to which technical assistance would help MP&M facilities identify and choose compliance strategies which include pollution prevention technologies and practices that are most cost-effective and protective of the environment.

If commenters believe technical assistance would be valuable, EPA invites comments and data to address the following questions. What would be the most productive source (e.g. EPA, state, or local environmental agencies; departments of commerce or development; universities; non-profit organizations; private trade associations) of technical assistance? What would be the most productive form (e.g. printed material, electronic bulletin boards, telephone hotlines, on-site visits) of technical assistance? Commenters who currently use the technical assistance services provided in most states are requested to respond as to the utility of the services which they use. Would commenters be willing to pay a reasonable fee for such services?

14. Consolidated Reporting and Permitting. EPA understands that MP&M facilities often must comply with several different reporting and permitting requirements for different media (i.e. air, water, and solid waste). These separate requirements could inhibit the development of comprehensive site-wide environmental compliance strategies. For example, some pollution prevention strategies which reduce overall environmental impact can be complicated by having to comply with separate media requirements. The Agency is soliciting comments on the degree to which separate reporting and permitting programs for different media hinder comprehensive site-wide environmental compliance strategies or pollution prevention approaches at MP&M facilities. EPA is soliciting data related to specific examples.

15. Impact of Procurement Practices. EPA is soliciting comments on the degree to which certain government and private procurement practices (product specifications) inhibit MP&M facilities from using pollution prevention technologies and practices, especially in cases where such technologies and practices could yield a cost effective, quality product with less risk to the environment. EPA is soliciting data related to specific examples.

16. Pollution Prevention Planning. Several states require MP&M facilities to develop various types of pollution prevention plans. EPA is soliciting comments from MP&M facilities which are currently required to develop pollution prevention plans as to whether or not the planning requirements were productive in identifying cost-effective pollution prevention practices, whether the permit process inhibited the use of such pollution prevention practices developed in the plans, and how the permit process could be changed to encourage the use of such pollution prevention practices.

17. Financing Pollution Prevention. EPA is soliciting comments as to the degree to which MP&M facilities have encountered difficulty in acquiring capital for pollution prevention projects. EPA is soliciting data related to specific examples.

18. Contiguous Site Definition. EPA seeks comments on how to define which parcels of property within the same fence line on a mixed use property are contiguous. For example, should properties be divided into a system of grids with all discharges from sites within a single sector considered contiguous? Should discharges from a single building be treated as a plant or portion of a plant for purposes of determining the volume of discharge subject to regulation? Another option would be for permit writers to make the determination case-by-case based on some degree of proximity between industrial operations and a practical application of the requirements for MP&M Phase I industries (with due consideration to the amount of MP&M Phase I wastestream and its concentration in the overall wastestream discharged to the treatment works), the degree to which functions are related, and such other factors as EPA considers relevant to the determination.

19. Flow Definition. In this proposal, EPA has defined existing small volume indirect dischargers as existing indirect sites which discharge less than one million gallons per year. EPA is soliciting comments on whether the flow cut off for this exemption should be provided as a daily flow rate. For example, for a site operating 250 days per year, one million gallons discharge per year is equivalent to an average discharge of 4,000 gallons per day.

20. Municipalities. EPA has not examined the potential cost of compliance or environmental benefit from regulating municipal facilities which manufacture, maintains or rebuilds finished metal parts, products or machines within one of the seven industrial sectors in MP&M Phase I. EPA believes most municipal MP&M facilities would be existing indirect dischargers discharging less than one million gallons per year and would therefore be exempt from this regulation. However, EPA is seeking comment from municipalities which would qualify as MP&M Phase I sites and which would not qualify for the low flow exemption. Depending on the comments and data received, EPA could perform additional analyses to specifically cover municipal MP&M facilities, or EPA could specifically

exempt municipal MP&M facilities, especially if regulating such facilities is determined to be an unfunded mandate.

21. Subcategorization. In today's notice, the Agency proposes to treat the Metal Products and Machinery industry as one category with a uniform BAT and new source standard. A single standard provides simplicity and clarity in compliance, permitting, and enforcement and, thus, may reduce compliance and implementation costs.

However, the Agency recognizes that subcategorization may provide additional environmental benefits. Certain treatment technologies, for example, may reduce effluent loadings but may only be economically feasible for a subset of the regulated community. Since, according to available data, such technologies are not applicable to the entire industry category, the Agency has not selected such a technology for either the BAT or new source standards. The Agency solicits comments on how to balance the potential regulatory impacts of subcategorization against the potential environmental benefits of a more stringent BAT or new source standard for a subset of the Metal Products and Machinery category.

22. Innovative Approaches to Reduce Regulatory Burden. The Agency solicits comments on innovative regulatory approaches that offer incentives for users to employ more effective pollution prevention or treatment technologies by reducing their regulatory burden. For example, a more stringent new source standard for a subcategory of the industry could include reduced monitoring or reporting requirements that could offset potentially higher compliance costs. In addition, the Agency could include a program that would offer similar regulatory flexibility to existing users who opt into permit conditions equal to a more stringent new sources standard. Similarly, a voluntary program that allows users to opt to meet more stringent technology standards in return for reduced monitoring and other requirements could be offered to both new and existing users even in the absence of either a more stringent new source standard or BAT standard. The Agency welcomes comments on these and other innovative approaches that could simultaneously improve water quality and ease regulatory burdens.

23. Data Collection. With today's notice, the Agency wishes to communicate to the regulated community its strong interest in providing incentives for incorporating the best technologies into the final rule using approaches that reduce regulatory burdens. The Agency hopes that its consideration of these possible innovative approaches reduces any potential disincentives for collecting and submitting technology cost and performance data. While the Agency retains its authority under section 308(q) of the Act, the Agency hopes that its consideration of innovative and voluntary approaches will maximize voluntary data submissions during the comment period following today's proposal.

24. Benefits Methodology. EPA acknowledges the unavoidable uncertainty associated with estimating benefits. EPA believes that it has used the best methodology available for estimating benefits. EPA is soliciting comments on the reliability and accuracy of the methods used and suggestions on alternative methods which could be used for the final rule.

25. Unfunded Mandates. EPA believes that the proposed regulation represents the most cost effective approach. EPA acknowledges that the proposed regulation may not be the least burdensome, but EPA believes that the additional costs are justified due to the additional pollutant removals achieved. With respect to the Unfunded Mandates Act, EPA is soliciting comments and data on cost effective alternatives which are less burdensome. In addition, EPA solicits comment on how to interpret ''most cost effective'' in the context of the effluent guideline program.

## XX. Guidelines for Comment Submission of Analytical Data

EPA requests that commentors to today's proposed rule submit analytical, flow, and production data to supplement data collected by the Agency during the regulatory development process. To ensure that commentor data may be effectively evaluated by the Agency, EPA has developed the following guidelines for submission of data.

### *A. Types of Data Requested*

1. EPA requests paired influent and effluent treatment data for each of the technologies identified in the technology options, as well as any additional technologies applicable to the treatment of MP&M waste waters. This includes end-of-pipe treatment technologies and in process treatment, recycling, water reuse, or metal recovery technologies. Submission of effluent data only is not sufficient for full analysis; the corresponding influent data must be provided.

For submissions of paired influent and effluent treatment data, a minimum of four days of data are required for EPA to assess variability. Submissions of paired influent and effluent treatment data should include: a process diagram of the treatment system; treatment chemical addition rates; sampling point locations; sample collection dates; influent and effluent flow rates for each treatment unit during the sampling period; sludge or waste oil generation rates; a brief discussion of the treatment technology sampled; and a list of unit operations contributing to the sampled wastestream. EPA requests data for systems that are treating only process waste water. Systems treating non-process waste water (e.g., sanitary waste water or non-contact cooling water) will not be evaluated by EPA. In addition to data for the analytes discussed below, data for total suspended solids (TSS) and pH must be included with submissions of treatment data. If available, information on capital cost, annual (operation and maintenance) cost, and treatment capacity should be included for each treatment unit within the system.

2. EPA also requests flow, production, and analytical data from MP&M unit operations, rinses, and wet air pollution control devices. Submissions of analytical data for MP&M unit operations and rinses should include a process diagram of the unit operation; a description of the purpose and performance of the operation; production data associated with the sampling period; flow rates associated with the sampling period (i.e., continuous discharge flow rates, intermittent discharge rates and frequencies, or volume of bath and time of last discharge for stagnant baths); sample type (grab or composite); temperature and pH of each sample; sample collection dates; known process bath constituents; sampling point locations; and, the volume, discharge frequency, and destination of all process waste water, waste oil, or sludge generated by the unit operation.

Associated production data should be provided in the following units: mass of metal removed (for abrasive jet machining, electrical discharge machining, grinding, machining, and plasma arc machining operations), in standard cubic feet of air flow (for wet air pollution control operations), or surface area of parts processed (for all other unit operations). Flow, production, and analytical data should all correspond to the same period of time. When applicable, a description of any pollution prevention technologies used at the site for the unit operations, including cost savings and pollution reduction estimates should be provided.

*B. Analytes Requested*

EPA considered 342 metal, organic, conventional, and other nonconventional pollutant parameters for regulation under the MP&M Category. Based on analytical data collected by the Agency, 69 pollutant parameters were identified as MP&M ''pollutants of concern''. Complete lists of pollutant parameters considered for regulation and pollutants of concern (as well as the criteria used to identify each of these pollutant parameters) are available in the Technical Development Document for this proposal. The Agency requests analytical data for any of the 69 pollutants of concern and for any other pollutant parameters which commentors believe are of concern in the MP&M industry. TSS and pH data are requested for all samples. For submissions of data including organic pollutants, data for oil and grease (O&G) is requested. Table 27 presents the EPA analytical methods for these pollutants. Commentors should use these methods or equivalent methods for analyses, and should document the method used for all data submissions.

*C. Quality Assurance/Quality Control (QA/QC) Requirements*

Today's proposed regulations were based on analytical data collected by EPA using rigorous QA/QC checks. These QA/QC checks include procedures specified in each of the analytical methods, as well as procedures used for the MP&M sampling program in accordance with EPA sampling and analysis protocols. The Agency requests that submissions of analytical data include documentation that QA/QC procedures similar to those listed below were observed.

EPA followed the QA/QC procedures specified in the analytical methods listed in Table 27. These QA/QC procedures include sample preservation and the use of method blanks, matrix spikes, matrix spike duplicates, laboratory duplicate samples, and Q standard checks (e.g., continuing calibration blanks). EPA requests that sites provide detection limits for all non-detected pollutants. EPA also requests that composite samples be collected for all flowing waste water streams (except for analyses requiring grab samples, such as oil and grease), sites collect and analyze 10% field duplicate samples to assess sampling variability, and sites provide data for equipment blanks for volatile organic pollutants when automatic compositors are used to collect samples.

TABLE 27.—EPA ANALYTICAL METHODS FOR USE WITH MP&M

| Parameter | EPA method | Sample type |
|---|---|---|
| Metals | 1620 | Composite/Grab. |
| Volatile Organics | 1624 | Composite/Grab. |
| Semivolatile Organics | 1625 | Grab. |
| pH | 150.1 | Composite/Grab. |
| Total Dissolved Solids (TDS) | 160.1 | Composite/Grab. |
| Total Suspended Solids (TSS) | 160.2 | Composite/Grab. |
| Chloride, Fluoride, and Sulfate | 300.0 or 325.2, 340.2, and 375.4 | Composite/Grab. |
| Acidity | 305.1 | Composite/Grab. |
| Alkalinity | 310.2 | Composite/Grab. |
| Cyanide, Total | 335.2 | Grab. |
| Nitrogen, Ammonia | 350.1 | Composite/Grab. |
| Nitrogen, Total Kjeldahl | 351.2 | Composite/Grab. |
| Phosphorus, Total | 365.4 | Composite/Grab. |
| Chemical Oxygen Demand | 410.1 or 410.2 | Composite/Grab. |
| Oil and Grease, Total Recoverable | 413.2 | Grab. |
| Phenolics, Total Recoverable | 420.2 | Composite/Grab. |

## XXI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, requires each agency, unless prohibited by law, to assess the effects of federal regulations on State, local, and tribal governments and the private sector. Under Section 202 of the Unfunded Mandates Act, EPA must prepare an unfunded mandate statement to accompany any proposed rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective or least burdensome alternative that achieves the requirements, or explain why this was not possible. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

The unfunded mandate statement under Section 202 must include: (1) a citation of the statutory authority under which the rule is proposed, (2) an assessment of the costs and benefits of the rule and the federal resources available to defray the costs, (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry, (4) where relevant, an estimate of the effect on the national economy, and (5) a description of EPA's prior consultation with State, local, and tribal officials.

Since this proposed rule is estimated to impose costs to the private sector in excess of $100 million, EPA has prepared the following statement with respect to budgetary impacts. EPA does not expect that this rule will impose significant costs on State, local, or tribal governments; although EPA has taken several steps to reduce the administrative burden of this proposed rule.

1. Statutory Authority

The statutory authority for this rulemaking is identified and described in Sections I and II of the preamble. As required by Section 205 of the Unfunded Mandates Act and as discussed in Section IX of the preamble, EPA has chosen to propose a rule that is the most cost-effective alternative for regulation of these sources that meets the statutory requirements under the Clean Water Act. EPA acknowledges that the proposed regulation may not be the least burdensome, but EPA believes that the additional costs are justified due to the additional pollutant removals achieved.

2. Costs and Benefits

The assessment of costs and benefits for this rule, including the assessment of costs and benefits to State, local, and tribal governments, is discussed in the Regulatory Impact Assessment for this proposal and in Section XV of the preamble.

3. Future and Disproportionate Costs

The Unfunded Mandates Act requires that EPA estimate, where accurate estimation is reasonably feasible, future compliance costs imposed by the rule and any disproportionate budgetary effects. EPA's estimates of the future compliance costs of this rule are discussed in the Regulatory Impact Assessment for this proposal and in Section XIV of the preamble.

EPA does not expect that there will be any disproportionate budgetary effects of the proposed rule on any particular areas of the country, particular governments or types of communities. This is because the affected population of MP&M facilities is distributed throughout the country in settings from urban to rural. The estimated annual impact of this proposed rule on the affected industry is $161 million ($1994) as discussed in Section XIV of this preamble. A discussion of community impacts is also included in Section XIV. The annual administrative burden on State and local governments is estimated to be $1.9 to 3.2 million ($1994) as discussed in Section XIV.C. of the preamble and in the Regulatory Impact Assessment. The administrative burden was estimated for State and local governments combined due to the way in which direct and indirect discharge permits are administered. The impact on tribal governments is expected to be zero.

4. Effects on National Economy

The Unfunded Mandates Act requires that the EPA estimate the effect of this rule on the national economy where (1) accurate estimates are feasible and (2) the rule will have a ''material'' effect on the economy. EPA's estimates of the impact of this proposal on the national economy are described in Section XIV of this preamble. The Federal resources which are generally available for financial assistance to States are included in Section 106 of the Clean Water Act.

5. Consultation With Government Officials

The Unfunded Mandates Act requires that EPA describe the extent of the Agency's prior consultation with affected State, local, and tribal officials, summarize the officials' comments or concerns, and summarize EPA's response to those comments or concerns. In addition, Section 203 of the Act requires that EPA develop a plan for informing and advising small governments that may be significantly or uniquely impacted by a proposal.

In the development of this rule, EPA has conducted over a dozen technical presentations to explain the content of the MP&M proposal. Included among these presentations was a public meeting held on February 23, 1994. Also included among these presentations were several meetings with State and local governments. In summary, the comments and concerns raised by government officials had to do with the potential administrative burden of this proposed rule. EPA has addressed these concerns by evaluating the characteristics of the industry in order to determine if the potential administrative burden could be reduced without significantly changing the environmental benefits of the proposed rule. After carefully evaluating the number and size of MP&M facilities, the estimated cost of compliance and the estimated pollutant loadings, EPA decided to exempt existing indirect dischargers which discharge less than one million gallons per year. This addresses the concerns of State and local governments by significantly reducing the administrative burden while continuing to cover the majority of the pollutant loadings from this industry. Small governments are not significantly impacted by this rule as discussed in Sections XIV and XV if this preamble, and therefore no plan is required.

**Appendix A To The Preamble—Abbreviation, Acronyms, and Other Terms Used in This Notice**

Act—The Clean Water Act

Agency—U.S. Environmental Protection Agency

BAT—Best available technology economically achievable, as defined by section 304(b)(2)(B) of the Act.

BCT—Best conventional pollutant control technology, as defined by section 304(b)(4) of the Act.

BMP—Best management practices, as defined by section 304(e) of the Act.

BPT—Best practicable control technology currently available, as defined by section 304(b)(1) of the Act.

CAA—Clean Air Act (42 U.S.C. 7401 et. seq., as amended *inter alia* by the Clean Air Act Amendments of 1990 (Pub. L. 101–549, 104 stat. 2394).

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Pub. L. 95–217), and the Water Quality Act of 1987 (Pub. L. 100–4).

Conventional Pollutants—Constituents of waste water as determined by section 304(a)(4) of the Act and the regulations thereunder 40 CFR 401.16, including, but not limited to, pollutants classified as biochemical oxygen demand, suspended solids, oil and grease, fecal coliform, and pH.

CTG—Control Techniques Guideline (applicable to NESHAPs)

DCP—Data Collection Portfolio (detailed questionnaire for MP&M)

Direct Discharger—An industrial discharger that introduces waste water to a water of the United States with or without treatment by the discharger.

Effluent Limitation—A maximum amount, per unit of time, production, volume or other unit, of each specific constituent of the effluent from an existing point source that is subject to limitation. Effluent limitations may be expressed as a mass loading or as a concentration in milligrams of pollutant per liter discharged.

End-of-Pipe Treatment (EOP)—Refers to those processes that treat a plant waste stream for pollutant removal prior to discharge.

HAP—Hazardous Air Pollutant

Indirect Discharger—An industrial discharger that introduces waste water into a publicly owned treatment works.

In-Plant Control or Treatment Technologies—Controls or measures applied within the manufacturing process to reduce or eliminate pollutant and hydraulic loadings of raw waste water. Typical in-plant control measures include process modification, instrumentation, recovery of raw materials, solvents, products or by-products, and water recycle.

MDCP—Mini Data Collection Portfolio (screener survey for MP&M)

MP&M—Metal Products and Machinery point source category

NESHAP—National Emission Standards for Hazardous Air Pollutants

MACT—Maximum Achievable Control Technology (applicable to NESHAPs)

Nonconventional Pollutants—Pollutants that have not been designated as either conventional pollutants or priority pollutants.

NPDES—National Pollutant Discharge Elimination system, a Federal Program requiring industry dischargers, including municipalities, to obtain permits to discharge pollutants to the nation's water, under section 402 of the Act.

OCPSF—Organic chemicals, plastics, and synthetic fibers manufacturing

point source category (40 CFR part 414).
POTW—Publicly owned treatment works.
Priority Pollutants—The 126 pollutants listed in 40 CFR part 423, appendix A.
PSES—Pretreatment Standards for existing sources of indirect discharges, under section 307(b) of the Act.
PSNS—Pretreatment standards for new sources of indirect discharges, under sections 307 (b) and (c) of the Act.
RACT—Reasonably Available Control Technology (applicable to NESHAPs)
SIC—Standards Industrial Classification, a numerical categorization scheme used by the U.S. Department of Commerce to denote segments of industry.
Technical Development Document—Development Document for Effluent Limitations Guidelines and Standards for the Metal Products and Machinery Phase I Point Source Category.
VOC—Volatile Organic Compound

**List of Subjects**

*40 CFR Part 433*

Environmental protection, Metals, Waste treatment and disposal, Water pollution control.

*40 CFR Part 438*

Environmental protection, Metals, Water pollution control, Water treatment and disposal.

*40 CFR Part 464*

Environmental protection, Metals, Waste treatment and disposal, Water pollution control.

Dated: March 31, 1995.

**Carol M. Browner,**

*Administrator.*

For the reasons set out in the preamble, title 40, chapter I is proposed to be amended as follows:

## PART 433—[AMENDED]

1. The authority citation for part 433 continues to read as follows:

**Authority:** Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1971, as amended by the Clean Water Act of 1977) (the ''Act''); 33 U.S.C. 1311, 1314(b) (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. Section 433.10 is amended by adding ''Metal Products and Machinery (40 CFR Part 438)'' to the list in paragraph (b) to read as follows:

**§ 433.10 Applicability; description of the metal finishing point source category.**

* * * * *

(b) * * *

Metal Products and Machinery (40 CFR Part 438)

* * * * *

3. A new part 438 is proposed to be added as follows:

## PART 438—METAL PRODUCTS AND MACHINERY POINT SOURCE CATEGORY

**Subpart A—Metal Products and Machinery Phase I Category**

Sec.
438.10 Applicability; description of the Metal Products and Machinery Phase I point source category.
438.11 Specialized definitions.
438.12 Monitoring Requirements
438.13 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
438.14 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).
438.15 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
438.16 Pretreatment standards for existing sources (PSES).
438.17 New source performance standards (NSPS).
438.18 Pretreatment standards for new sources (PSNS).

**Subpart B—Metal Products and Machinery Phase II Category**

438.20 [Reserved]

**Authority:** Secs. 301, 304, 306, 307, 308, and 501 of the Clean Water Act (33 U.S.C. 1311, 1314, 1316, 1317, 1318, and 1361) and 42 U.S.C. 13101 et seq.

### Subpart A—Metal Products and Machinery Category

**§ 438.10 Applicability; description of the Metal Products and Machinery Phase I point source category.**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, the provisions of this subpart apply to process wastewater discharges from plants or portions of plants within the Metal Products and Machinery (hereafter referred to as MP&M) Phase I industries which manufacture, maintain or rebuild finished metal parts, products or machines from any basis metal.

(b) The following existing effluent limitations and standards generally apply to the production of semi-finished products, although wastewater from similar operations is generated within MP&M Phase I. These part 438 limits shall not apply in cases in which one or more of the following regulations specifically applies, nor in cases in which either MP&M Phase I or one of the following regulations could apply to the wastewater discharge from the same operations; in these cases, the following regulations shall apply:

Iron and steel manufacturing (40 CFR Part 420)
Nonferrous metals manufacturing (40 CFR Part 421)
Ferroalloy manufacturing (40 CFR Part 424)
Battery manufacturing (40 CFR Part 461)
Plastic molding and forming (40 CFR Part 463)
Metal molding and casting (40 CFR Part 464)
Coil coating (40 CFR Part 465)
Porcelain enameling (40 CFR Part 466)
Aluminum forming (40 CFR Part 467)
Copper forming (40 CFR Part 468)
Electrical and electronic components (40 CFR Part 469)
Nonferrous metals forming and metal powders (40 CFR Part 471)

(c) This subpart does not apply to plants which manufacture, maintain or rebuild finished metal parts, products or machines only within MP&M Phase II industries.

(d) This subpart does not apply to existing indirect discharging surface finishing job shops and independent printed wiring board manufacturers (which are covered by 40 CFR parts 413 and 433).

**§ 438.11 Specialized definitions.**

(a) The term *semi-finished* shall mean mill products and other metal products specifically covered by one of the existing regulations listed in § 438.10 (b).

(b) The term *finished* shall mean metal parts, products or machines which are not specifically covered by one of the existing regulations listed in § 438.10 (b).

(c) The term *T*, as in *Cyanide, T*, shall mean total.

(d) The term *surface finishing job shop* shall mean a facility which owns not more than 50% (annual area basis) of the materials undergoing surface finishing operations.

(e) The term *TSS* shall mean total suspended solids.

(f) The term *MP&M Phase I industries* shall mean any one or more of the following seven industries: aircraft, aerospace, electronic equipment, hardware, mobile industrial equipment, ordnance, and stationary industrial equipment. A list of typical products within these seven industries is included in Appendix A of this part. If a plant generates wastewater from operations performed in both MP&M Phase I and MP&M Phase II industries and the wastewater from both phases is discharged to a combined outfall, then the plant is considered MP&M Phase I and the combined outfall is covered by this subpart. If the plant segregates Phase I wastewater from Phase II

wastewater, and discharges these wastewaters to separate outfalls, then only the Phase I wastewater is covered by this subpart.

(g) The term *MP&M Phase II industries* shall mean any one or more of the following eight industries: bus and truck, household equipment, instruments, motor vehicles, office machines, railroad, ships and boats, and precious and non-precious metals. A list of typical products within these eight industries is included in Appendix B of this part.

(h) The term *independent printed wiring board manufacturer* shall mean a facility which manufactures printed wiring boards (also referred to as printed circuit boards) principally for sale to other companies.

(i) The term *plant or portion of a plant* is defined to include an activity, facility, or mixed use facility that is engaged in performing an MP&M-related industrial function and either located in a single building or located on a contiguous parcel of property. For purposes of this definition, mixed use facilities are those that have a mixture of non-related industrial, residential, or office types of activities. Sources or point sources located within the same fence line or property boundary are not necessarily considered contiguous.

(j) the terms *source* and *point source* are defined as process wastewater discharges from plants or portions of plants.

**§ 438.12 Monitoring requirements.**

Self monitoring for cyanide must be conducted after cyanide treatment and before combining with other streams. Alternatively, samples may be taken of the final effluent, if the plant limitations are adjusted based on the dilution ratio of the cyanide waste stream flow to the effluent flow.

**§ 438.13 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).**

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 of this part.

(b) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

**§ 438.14 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).**

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 for oil & grease, TSS and pH.

(b) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

**§ 438.15 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).**

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 for all parameters except TSS and pH.

(b) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

(c) An existing source subject to this subpart shall comply with the oil & grease standard which serves as an indicator for the organic pollutants which have the potential to be present in the wastewater.

**§ 438.16 Pretreatment standards for existing sources (PSES).**

Except as provided in 40 CFR 403.7 through 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and by [3 years from date the final rule is promulgated] and achieve the following pretreatment standards for existing sources (PSES):

(a) Any source discharging 1,000,000 gallons or more per calendar year of MP&M process wastewater must achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 of this part for all parameters except TSS and pH. If mass limitations have not been developed as required, the source shall achieve discharges not exceeding the concentration limitations listed in Table 1 for all parameters except TSS and pH.

(b) Any source discharging less than 1,000,000 gallons per calendar year of MP&M process wastewater is exempt from this subpart.

(c) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this section.

(d) An existing source subject to this subpart shall comply with the oil & grease standard which serves as an indicator for the organic pollutants which have the potential to be present in the wastewater and which would pass through the publicly owned treatment works. Since oil and grease serves as an indicator for organic pollutants, POTW removal credits under 40 CFR 403.7 are not available for oil and grease.

**§ 438.17 New source performance standards (NSPS).**

(a) Any new source subject to this subpart must achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 of this part.

(b) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

**§ 438.18 Pretreatment standards for new sources (PSNS).**

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve discharges not exceeding the quantity (mass) of pollutant determined by multiplying the process wastewater discharge flow subject to this subpart times the concentration listed in Table 1 of this part for all parameters except TSS and pH. If mass limitations have not been developed as required, the source shall achieve discharges not exceeding the concentration limitations listed in Table 1 of this part for all parameters except TSS and pH.

(b) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total

substitute for adequate treatment to achieve compliance with this section.

(c) A new source subject to this subpart shall comply with the oil & grease standard which serves as an indicator for the organic pollutants which have the potential to be present in the wastewater and which would pass through the publicly owned treatment works. Since oil and grease serves as an indicator for organic pollutants, POTW removal credits under 40 CFR 403.7 are not available for oil and grease.

## Subpart B—Metal Products and Machinery Phase II Category

### § 438.20 [Reserved]

TABLE 1 TO PART 438.—MP&M CONCENTRATION LIMITATIONS

[Milligrams per liter (mg/l)]

| Pollutant or pollutant property | Maximum for 1 day | Monthly average shall not exceed |
|---|---|---|
| Aluminum (T) | 1.4 | 1.0 |
| Cadmium (T) | 0.7 | 0.3 |
| Chromium (T) | 0.3 | 0.2 |
| Copper (T) | 1.3 | 0.6 |
| Iron (T) | 2.4 | 1.3 |
| Nickel (T) | 1.1 | 0.5 |
| Zinc (T) | 0.8 | 0.4 |
| Cyanide (T) | 0.03 | 0.02 |
| Oil & Grease | 35 | 17 |
| TSS | 73 | 36 |
| pH | (1) | (1) |

[1] Within 6.0 to 9.0.

## Appendix A to Part 438—Typical Products Within MP&M Phase I Industries

**Aerospace**

Guided Missiles & Space Vehicle
Guided Missile & Space Vehicle Prop.
Other Space Vehicle & Missile Parts

**Aircraft**

Aircraft Frames Manufacturing
Aircraft Engines & Engine Parts
Aircraft Parts & Equipment
Airports, Flying Fields, & Services

**Electronic Equipment**

Telephone & Telegraph Apparatus
Radio & TV Communications Equipment
Communications Equipment
Electron Tubes
Electronic Capacitors
Electronic Coils & Transformers
Connectors for Electronic Applications
Electronic Components
Electric Lamps

**Hardware**

Cutlery
Hand & Edge Tools
Hand Saws & Saw Blades
Hardware
Screw Machine Products
Bolts, Nuts, Screws, Rivets & Washers
Metal Shipping Barrels, Drums Kegs, Pails
Iron & Steel Forgings
Crowns & Closures
Metal Stampings
Steel Springs
Wire Springs
Miscellaneous Fabricated Wire Products
Fasteners, Buttons, Needles & Pins
Fluid Power Valves & Hose Fittings
Valves & Pipe Fittings
Fabricated Pipe & Fabricated Pipe Fittings
Fabricated Metal Products
Machine Tools, Metal Cutting Types
Machine Tools, Metal Forming Types
Special Dies & Tools, Die Sets, Jigs, Etc.
Machine Tool Accessories & Measuring Devices
Power Driven Hand Tools
Heating Equipment, Except Electric
Industrial Furnaces & Ovens
Fabricated Structural Metal
Fabricated Plate Work (Boiler Shops)
Sheet Metal Work
Architectural & Ornamental Metal Work
Prefabricated Metal Buildings & Components
Miscellaneous Metal Work

**Mobile Industrial Equipment**

Farm Machinery & Equipment
Garden Tractors & Lawn & Garden Equipment
Construction Machinery & Equipment
Mining Machinery & Equipment, Except Oil Field
Hoist, Industrial Cranes & Monorails
Industrial Trucks, Tractors, Trailers
Tanks & Tank Components

**Ordnance**

Small Arms Ammunition
Ammunition
Small Arms
Ordnance & Accessories

**Stationary Industrial Equipment**

Steam, Gas, Hydraulic Turbines, Generator Units
Internal Combustion Engines
Oil Field Machinery & Equipment
Elevators & Moving Stairways
Conveyors & Conveying Equipment
Industrial Patterns
Rolling Mill Machinery & Equipment
Metal Working Machinery
Textile Machinery
Woodworking Machinery
Paper Industries Machinery
Printing Trades Machinery & Equipment
Food Product Machinery
Special Industry Machinery
Pumps & Pumping Equipment
Ball & Roller Bearings
Air & Gas Compressors
Blowers & Exhaust & Ventilation Fans
Packaging Machinery
Speed Changers, High Speed Drivers & Gears
Industrial Process Furnaces & Ovens
Mechanical Power Transmission Equipment
General Industrial Machinery
Automatic Vending Machines
Commercial Laundry Equipment
Refrigeration & Air & Heating Equipment
Measuring & Dispensing Pumps
Service Industry Machines
Fluid Power Cylinders & Actuators
Fluid Power Pumps & Motors
Scales & Balances, Except Laboratory
Industrial Machinery
Welding Apparatus
Transformers
Switchgear & Switchboard Apparatus
Motors & Generators
Relays & Industrial Controls
Electric Industrial Apparatus
Heavy Construction Equipment Rental
Equipment Rental & Leasing

## Appendix B to Part 438—Typical Products Within MP&M Phase II Industries

**Bus & Truck**

Truck & Bus Bodies
Motor Vehicle Parts & Accessories
Truck Trailers
Local & Suburban Transit (Bus & subway)
Local Passenger. Trans. (Lim., Amb., Sight See)
Intercity & Rural Highways (Buslines)
School Buses
Bus Terminal & Service Facilities
Local Trucking Without Storage
Trucking
Local Trucking With Storage
Courier Services, Except by Air
Freight Truck Terminals, W/ or W/O Maintenance.
Truck Rental & Leasing, Without Drivers

**Household Equipment**

Household Cooking Equipment
Household Refrig. & Home & Farm Freezers
Household Laundry Equipment
Electric Housewares & Fans
Household Vacuum Cleaners
Household Appliances
Electric Lamps
Current-Carrying Wiring Devices
Noncurrent-Carrying Wiring Devices
Residential Electrical Lighting Fixtures
Commercial, Ind. & Inst. Elec. Lighting Fixtures
Lighting Equipment
Radio & Television Sets Except Commn. Types
Radio & Television Repair Shops
Refrig. & Air Cond. Serv. & Repair Shops

**Instruments**

Coating, Engraving, & Allied Services
Search & Navigation Equipment
Laboratory Apparatus & Furniture
Automatic Environmental Controls
Process Control Instruments
Fluid Meters & Counting Devices
Instruments to Measure Electricity
Analytical Instruments
Measuring & Controlling Devices
Optical Instruments & Lenses
Surgical & Medical Instruments & Apparatus
Orthopedic, Prosthetic, & Surgical Supplies
Dental Equipment & Supplies
Ophthalmic Goods
Watches, Clocks, Associated Devices & Parts
Pens, Mechanical Pencils, & Parts
Manufacturing Industries
Miscellaneous repair Shops & Related Services

**Motor Vehicle**

Carburetors, Pistons Rings, Valves

Vehicular Lighting Equipment
Electrical Equipment for Motor Vehicles
Motor Vehicle Parts & Accessories
Motorcycles
Miscellaneous Transportation Equipment
Automotive Stampings
Motor Vehicle & Automotive Bodies
Mobile Homes
Travel Trailers & Campers
Taxicabs
Automotive Equipment
Automobile Dealers (new & used)
Gasoline Service Stations
Recreational & Utility Trailer Dealers
Motorcycle Dealers
Auto. Dealers (Dunebuggy, Go-cart, Snowmobile)
Passenger Car Rental
Passenger Car Leasing
Utility Trailer & Recreational Vehicle Rental
Top & Body Repair & Paint Shops
Auto Exhaust System Repair Shops
Automotive Glass Replacement Shops
Automotive Transmission Repair Shops
General Automotive Repair Shops
Automotive Repairs Shops
Automobile Service (includes Diag. & Insp. Cntrs.)
Welding Shops (includes Automotive)

**Office Machine**

Electronic Computers
Computer Storage Devices
Computer Terminals
Computer Peripheral Equipment
Calculating & Accounting Equipment
Office Machines
Photographic Equipment & Supplies
Compute Rental & Leasing
Compute Maintenance & Repair
Computer Related Services
Electrical & Electronic Repair

**Precious & Nonprecious Metals**

Jewelry, Precious Metal
Silverware, Plated Ware, & Stainless
Jewelers' Materials & Lapidary Work
Musical Instruments
Costume Jewelry

**Railroad**

Railcars, Railway Systems
Line-Haul Railroads
Switching & Terminal Stations

**Ships and Boats**

Ship Building & Repairing
Boat Building & Repairing
Marines
Deep Sea Domestic Transportation of Freight
Freight Transportation on the Great Lakes
Water Transportation of Freight
Deep Sea Passenger Transportation, Except by Ferry
Water Passenger Transportation
Ferries
Towing & Tugboat Service
Water Transportation Services

## PART 464—[AMENDED]

4. The authority citation for part 464 continues to read as follows:

**Authority:** Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307, 308, and 501 of the Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the ''Act''); 33 U.S.C. 1311, 1314(b), (c), (e) and (g), 1316(b) and (c), 1317 (b) and (c), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

5. Section 464.02 is amended by revising the last sentence of paragraphs (a), (b), (c), and (d) to read as follows:

**§ 464.02 General definitions.**

* * * * *

(a) * * * Processing operations following the cooling of castings not covered under aluminum forming, except for grinding scrubber operations which are covered in this section, are covered under the electroplating, metal finishing, and metal products and machinery point source categories (40 CFR parts 413, 433 and 438).

(b) * * * Except for grinding scrubber operations which are covered in this section, processing operations following the cooling of castings are covered under the electroplating, metal finishing, and metal products and machinery point source categories (40 CFR parts 413, 433 and 438).

(c) * * * Except for grinding scrubber operations which are covered in this section processing operations following the cooling of castings are covered under the electroplating, metal finishing, and metal products and machinery point source categories (40 CFR parts 413, 433 and 438).

(d) * * * Processing operations following the cooling of castings not covered under nonferrous metals forming are covered under the electroplating, metal finishing, and metal products and machinery point source categories (40 CFR parts 413, 433 and 438).

* * * * *

[FR Doc. 95–8885 Filed 5–26–95; 8:45 am]
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Federal Register

Tuesday
May 30, 1995

## Part III

# Department of Education

**Knowledge Dissemination and Utilization Program for Fiscal Year 1995; Notices**

## DEPARTMENT OF EDUCATION

### National Institute on Disability and Rehabilitation Research

### Knowledge Dissemination and Utilization (D&U) Program; Notice of Final Funding Priority for Fiscal Years 1995–1996 for the Knowledge Dissemination and Utilization Program

**SUMMARY:** The Secretary announces a final funding priority for the Knowledge Dissemination and Utilization (D&U) Program under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years l995–1996. The Secretary takes this action to ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of individuals with disabilities and their families.

**EFFECTIVE DATE:** This priority takes effect on June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** David Esquith, U.S. Department of Education, 600 Independence Avenue, SW., Switzer Building, room 3424, Washington, DC 20202–2601. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133.

**SUPPLEMENTARY INFORMATION:** This notice contains one final priority under the D&U program, in the area of community integration for individuals with mental retardation. Authority for the D&U program of NIDRR is contained in sections 202 and 204(a) and 204(b)(6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). This priority supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

On March 31, 1955, the Secretary published a notice of proposed priority in the **Federal Register** at 60 FR 16760. The comments received in response to that notice, and the Secretary's responses to them, are discussed in the following section of this notice.

#### Analysis of Comments and Responses

The Secretary received 13 letters of comment prior to the deadline date for receipt of comments. All but one of these comments supported the idea of an information center on community integration and mental retardation, but several made suggestions for additional activities. These comments are synopsized below, along with the Secretary's responses and any changes to the priority.

*Comment:* One commenter pointed out that the Background statement was misleading in stating that ''48 percent of all individuals with mental retardation nationwide resided in large congregate care settings.''

*Discussion:* The Secretary agrees that the statement should be revised to clarify that the percentage refers to all persons residing in other than their family homes.

*Changes:* The statement has been revised to read, ''of the 347,000 persons with mental retardation who resided in out-of-home care, 48 percent were in settings of 16 or more beds.''

*Comment:* A number of commenters urged NIDRR to continue research in the area of community integration and mental retardation, and many suggested specific research topics or areas for investigation.

*Discussion:* NIDRR currently maintains support for four Rehabilitation Research and Training Centers (RRTCs) in community integration for persons with developmental disabilities, including mental retardation, and supports additional work in this area in centers on families, ADA technical assistance and training projects, and discrete research projects. NIDRR expects to initiate a number of activities to review these programs, the state-of-the-art, and opportunities for future research in order to establish a timely and coherent agenda of research in community integration. However, the Secretary has determined that there is a need for information and technical assistance to community-based service providers, State and local agencies, consumer advocates, and consumers and their families about the findings of research, best practices, and integration strategies. This priority addresses that need.

*Changes:* None.

*Comment:* One commenter urged that the Department include information to facilitate community integration for individuals with mental illness in the activities under this priority.

*Discussion:* While the Secretary does not dispute the possible value of such an activity, he declines to add it to this priority for several reasons. First, the knowledge base on community integration is different for the two disability categories, as are the populations that would be the targets of the information dissemination and technical assistance activities. In addition, NIDRR has just announced a priority for an RRTC on long-term mental illness that will work to further develop and disseminate a knowledge base in the specific area of peer support and community integration.

*Changes:* None.

*Comment:* One commenter stated that it is not clear that consumers and their families are dissatisfied with the Intermediate Care Facilities (ICFs) that now exist, and also noted that studies show ICFs of four to six residents have favorable integration outcomes.

*Discussion:* The Secretary agrees that the dissemination Center must provide information and assistance that addresses a range of consumer and family goals. The background statement to the proposed priority expressed agreement with this commenter's point in that it did endorse the residential facility serving ''six or fewer individuals'' as a positive model.

*Changes:* None.

*Comment:* The same commenter noted that there are different concerns among different segments of the consumer and family populations, contending that some parent groups value health and safety while others focus on inclusion and integration, and stating that it would be important to address the range of concerns.

*Discussion:* The Secretary agrees that the range of concerns of self advocates and family advocates should be taken into consideration, but the primary focus of this Center is on community integration because that is one of NIDRR's statutorily-mandated objectives. The Secretary believes that maintenance of healthy and safe environments is a component of successful community integration.

*Changes:* None.

*Comment:* One commenter stated that NIDRR grantees should establish training and technical assistance resources with sophisticated knowledge of local conditions in each State and that are easily accessed by local providers.

*Discussion:* The Secretary believes this is one strategy grantees could use to disseminate information, but prefers to let the applicants present those approaches to dissemination that they believe will be most effective.

*Changes:* None.

*Comment:* One commenter suggested that the new Center be required to inform all State and local government agencies dealing with mental retardation of its existence and the type of services it offers.

*Discussion:* The Secretary agrees that it is important that the Center address the information needs of State and local government agencies, but believes that the phrase ''all state and local government agencies dealing with mental retardation'' is too vague and could pose a potential burden on the grantee to identify all agencies

regardless of their role. Therefore, the Secretary has revised the statement of priority to require that the Center advise all State Developmental Disabilities Councils and all State Protection and Advocacy Systems of its existence and proposed services.

*Changes:* The phrase, ''The Center must advise every State Developmental Disabilities Council and every State Protection and Advocacy System of its existence and proposed services'', has been added at the end of the bullet requiring broad coordination.

*Comment:* One commenter stated that it is inappropriate for NIDRR to limit the work of this Center to community integration for individuals with mental retardation since Congress has stated that ''supported employment'' is for people with various types of disabilities, and people with mental retardation have resources for extended on-going support services that people with other disabilities do not have.

*Discussion:* The Secretary points out that the dissemination Center will not focus primarily on supported employment and will not provide resources for extended support services. NIDRR supports ongoing research and demonstrations on supported employment, and on community integration and independent living, for persons with physical, sensory, and emotional disabilities. The purpose of the Center to be established under this priority is to compile and disseminate what has been learned in previous research and demonstration projects about community integration strategies for a population that has often been institutionalized. Research to promote community integration is a statutorily-authorized objective of NIDRR.

*Changes:* None.

*Comment:* One commenter recommended that the priority specifically detail responsibilities related to lifelong learning and literacy education.

*Discussion:* The Secretary agrees that literacy and opportunities for lifelong learning often are important components of community integration. However, the Secretary intentionally elected not to require that any specific components be addressed, but to encourage applicants to address those components that they believe are most critical and in which there is a substantial knowledge base for dissemination. The peer review panel will assess the appropriateness of the scope presented by the applicants.

*Changes:* None.

*Comment:* One commenter stated that the priority should require the grantee to address bankers, lenders, and financial policymakers in the private and public sectors to promote mortgage availability for individuals with mental retardation.

*Discussion:* The Secretary elects to allow applicants to address those components of community integration which it believes are most critical and likely to have the greatest impact on community integration.

*Changes:* None.

**Note:** This notice does not solicit applications. A notice inviting applications under this competition is published in the this issue of the **Federal Register**.

**Priority**

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this program only applications that meet this absolute priority:

*Facilitating Community Integration for Individuals with Mental Retardation*

Background

NIDRR has supported Rehabilitation Research and Training Centers in the area of mental retardation and developmental disabilities since 1965. In addition, NIDRR has supported a number of research projects targeted on this population in areas such as transition from school to work, public policy and expenditures for developmental disabilities in the U.S., and successful transitions from nursing homes into the community. As a result of such research and training efforts over many years, a large body of knowledge now exists relative to enabling individuals with mental retardation to live in their communities.

The population in public institutions for persons with mental retardation has decreased from 195,000 in 1967 to 81,200 persons in 1991, (Lakin, 1993) as a result of public policy decisions and vigorous efforts of public leadership groups to effect deinstitutionalization. However, successful integration into communities that includes residential, employment, and full participation components is not easily achieved.

During the past eight years there have been major developments in the understanding of community integration needs and strategies, including: funding models that allow for individualized options; systems for assessing support needs for an individual and in a community; models for both formal and informal support systems, and for integrating the two approaches; and model strategies for systems change within States. (Horner, 1994). Yet in nearly every State, policy and practice do not reflect these advances in knowledge and understanding, and do not take advantage of the best practices models and implementation strategies that have evolved through research and practice.

As a result, innovative supports for living in their own home or community are available to very few of those who potentially could benefit from them. Many thousands of people with developmental disabilities continue to live in private and public institutions and ''mini-institutions'' in the community. In many cases, ''deinstitutionalization has resulted in trans-institutionalization'' (Taylor, 1994). There are approximately 64,800 persons with mental retardation and related conditions who are not receiving any form of residential services and who are now on waiting lists for community residential services (Lakin et al., 1993). And, of the 347,000 persons with mental retardation who resided in out-of-home care, 48 percent were in settings of 16 or more beds. However, in 1992, there were 8 States that provided services to more than 60 percent of consumers in family-scale settings serving six or fewer individuals, while conversely, six States served fewer than 10 percent of their clients in such small settings (Braddock, 1994).

Thus, there is a demand for community integration assistance, coupled with a tremendous variation in State ability to meet those demands. This variation in services indicates that there is a critical need for information about innovative, state-of the-art practices and for training and technical assistance on how to improve policies and practices on community integration at the State and community levels.

NIDRR received substantial public comment on its 1995 proposed priorities, contending that there is a national need for information on best practices for community integration and a demand for training of service providers and consumers to help communities overcome the challenges of fully including all of their citizens and their families, and to make community integration a reality. State and local policy makers, regulators, and service agencies, as well as community service providers require training and technical assistance to enable them to address the issues that will emerge as States and localities move toward a system of individualized supports. States and communities require information and training on policies and strategies that could assist them in shifting from a provider-driven to a consumer-driven service delivery system. The quality of community

services delivered to persons with disabilities and their families will also depend on the ability of educational, employment and residential service agencies to effectively address the training needs of their approximately 250,000 direct service personnel (Wallace, T. & Johnson, D., 1992 and Braddock, 1994).

The Secretary believes that there is a critical need for dissemination of information on model programs, integrated statewide systems of service delivery, exemplary practices, and systems change strategies. In addition, there is a need to develop more effective mechanisms for training community-level service providers to ensure the implementation of best practices, and to provide training and technical assistance to consumer-directed self-advocacy organizations and parent organizations.

Priority

Under this priority, the Secretary supports a dissemination and technical assistance Center that—(1) Identifies and disseminates exemplary practices in community integration for individuals with mental retardation; and (2) provides training and technical assistance to State and local agencies, community-based service providers, and consumer-controlled advocacy organizations to facilitate the adoption of exemplary practices in community integration for individuals with mental retardation. In addition to activities proposed by the applicant to carry out these purposes, the Center must conduct the following activities:

- Design and implement a national information resource on community integration to serve policymakers and administrators, community-based service providers, consumer-controlled advocacy organizations, and individuals with mental retardation and their families, ensuring that information is available in accessible formats appropriate to individuals with a range of sensory, cognitive, and other disabilities;
- Prepare materials on important topical issues, which might include for example: strategies to address social and cultural barriers to full inclusion; strategies for cross-agency collaboration in the development of individualized services or case management practices; and reasonable accommodations to facilitate community inclusion, and use them in information dissemination, training, and technical assistance activities as appropriate; and
- Coordinate with existing NIDRR-funded projects and centers, and build upon the products of past NIDRR projects and similar efforts funded by other Federal agencies, to ensure that the best and most current information on needs and best practices is incorporated into the information dissemination, training, and technical assistance of this Center. The Center must advise every State Developmental Disabilities Council and every State Protection and Advocacy System of its existence and proposed services.

### Applicable Program Regulations

34 CFR parts 350 and 355.

**Program Authority:** 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133D, Knowledge Dissemination and Utilization Program)

Dated: May 23, 1995.

**Howard R. Moses,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 95–13066 Filed 5–26–95; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[CFDA No.: 84.133D]**

## Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research Notice Inviting Applications Under the Knowledge Dissemination and Utilization Program for Fiscal Year (FY) 1995

*Purpose of Program:* The Knowledge Dissemination and Utilization Program is designed to support activities that will ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and from other sources is fully utilized to improve the lives of individuals with disabilities and their families. The final priority for this award, entitled ''Information and Technical Assistance Center to Facilitate Community Integration,'' is published in this issue of the **Federal Register**. Potential applicants should consult the statement of the final priority published in this issue to ascertain the substantive requirements for their application.

This notice supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

*Eligible Applicants:* Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

*Applications Available:* June 7, 1995.

*Application Deadline:* July 28, 1995.

*Available Funds:* $400,000 per year.

*Estimated Number of Awards:* 1.

**Note:** The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

*Project Period:* Up to 36 months.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR parts 350 (amended April 5, 1995, (60 FR 17426)) and 355 (amended September 22, 1993 (58 FR 49419)); and the notice of final priority published elsewhere in this issue of the **Federal Register**.

*For Further Information Contact:* In order to obtain an application package, contact William H. Whalen, U.S. Department of Education, 600 Independence Avenue SW., Switzer Building, room 3411, Washington, DC 20202. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

**Program Authority:** 29 U.S.C. 761a and 762.

Dated: May 23, 1995.

**Howard R. Moses,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 95–13067 Filed 5–26–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday
May 30, 1995

## Part IV

# Department of Education

**Office of Special Education and Rehabilitative Services**

**National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year 1996**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

**[CFDA Nos.: 84.133F and 84.133G]**

### National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year (FY) 1996

**Note to Applicants:** This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

These programs support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

**Note:** The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and the following program regulations:

*Research Fellowships*—34 CFR part 356 (amended September 22, 1993 (58 FR 49419) and April 5, 1995 (60 FR 17431)).

*Field Initiated Research*—34 CFR parts 350 (amended April 5, 1995 (60 FR 17426)) and 357 (amended September 22, 1993 (58 FR 49419)).

*Program Title:* Rehabilitation Research Fellowships

*CFDA Number:* 84.133F

*Purpose:* The purpose of this program is to build research capacity by providing support to highly qualified individuals to perform research on the rehabilitation of disabled persons.

**Note:** The Secretary requires all research fellows to work full time on authorized fellowship activities (see 34 CFR 356.41).

*Selection Criteria:* The Secretary evaluates applications for fellowships according to the following criteria in 34 CFR 356.30.

(a) Quality and level of formal education, previous work experience, and recommendations of present or former supervisors or colleagues that include an indication of the applicant's ability to work creatively in scientific research; and

(b) The quality of a research proposal of no more than 12 pages containing the following information:

(1) The importance of the problem to be investigated to the purpose of the Act and the mission of NIDRR.

(2) The research hypotheses or related objectives and the methodology and design to be followed.

(3) Assurance of the availability of any necessary data resources, equipment, or institutional support, including technical consultation and support where appropriate, required to carry out the proposed activity.

*Eligible Applicants:* Individuals only are eligible to apply for research fellowships under this program.

**Program Authority:** 29 U.S.C. 761a(d).

APPLICATION NOTICE FOR FISCAL YEAR 1996

[Research Fellowships, CFDA No. 84.133F]

| Funding priority | Deadline for transmittal of applications | Estimated No. of awards | Estimated size of awards (per year) | Project period (months) |
|---|---|---|---|---|
| Research fellowships | 10/20/95 | 10 | 40,000 | 12 |

Applications Available: May 30, 1995.

*Program Title:* Field-Initiated Research (CFDA Number: 84.133G).

*Purpose:* This program is designed to encourage eligible parties to originate valuable ideas for research and demonstration, development, or knowledge dissemination projects to improve the lives of individuals with disabilities, and to support research and demonstration, development, or knowledge dissemination projects as described in program regulations that address important activities not supported by Institute-funded research or that complement that research in a promising way.

*Selection Criteria:* The Secretary uses the following criteria to evaluate an application under this program.

(a) *Importance of the problem.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The proposed project addresses a problem that is significant to persons with disabilities or to those who provide services to them; and

(2) The proposed project is likely to produce new and useful knowledge, techniques, or devices that will develop or disseminate solutions to problems confronting persons with disabilities.

(3) The application addresses the needs of individuals with disabilities from minority backgrounds.

(b) *Design of the project.* (45 points)

(1) The Secretary reviews each application for a research and demonstration project to determine the extent to which—

(i) The review of the literature is appropriate and indicates familiarity with the relevant current research;

(ii) The research hypotheses are theoretically sound and based on current knowledge;

(iii) The sample populations are adequate and appropriately selected;

(iv) The data collection instruments and methods are appropriate and likely to be successful;

(v) The data analysis measures are appropriate; and

(vi) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses.

(2) The Secretary reviews each application for a knowledge dissemination project to determine the extent to which—

(i) The need for the information has been demonstrated;

(ii) The target populations are appropriately specified;

(iii) The dissemination methods are appropriate to the target population;

(iv) The materials for dissemination are prepared in media accessible to the target population;

(v) There are adequate means of documenting and evaluating the effectiveness of the dissemination activity.

(3) The Secretary reviews each application for a development project to determine the extent to which—

(i) The proposed project will use the most effective and appropriate technology available in developing the new device or technique;

(ii) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology;

(iii) Devices or techniques will be developed and tested in an appropriate environment;

(iv) The applicant considers the cost-effectiveness and usefulness of the device or technique to be developed for persons with disabilities; and

(v) The applicant discusses the potential for commercial or private manufacture, marketing, and distribution of the product.

(c) *Personnel.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The key personnel have adequate training and experience in the required discipline to conduct the proposed activities;

(2) The allotment of staff time is adequate to accomplish the proposed activities; and

(3) The applicant ensures that personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions.

(d) *Management and Evaluation.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) The resources of the applicant are adequate, appropriate, and accessible to individuals with disabilities;

(2) The proposed budget is adequate and appropriate for the activities to be carried out;

(3) There is a plan, appropriate to the type of field-initiated project, to evaluate the effectiveness of the project in accomplishing its goals and objectives;

(4) The applicant provides a plan of operations, appropriate to the type of field-initiated project, indicating that it will achieve the project objectives in a timely and effective manner; and

(5) Appropriate collaboration with other agencies is assured.

*Eligible Applicants:* Public and private organizations, including institutions of higher education and Indian tribes and tribal organizations, are eligible to apply for awards under this program.

**Program Authority:** 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1996

[Field-Initiated Research, CFDA No. 84.133G]

| Funding Priority | Deadline for transmittal of applications | Estimated No. of awards | Estimated size of awards (per year) | Project period (months) |
|---|---|---|---|---|
| Field-initiated research | 9/29/95 | 15–20 | 125,000 | 36 |

Applications Available: May 30, 1995.

**Instructions For Transmittal of Applications**

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: _____(CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

**Application Forms and Instructions**

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions.

(**Note:** ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

**FOR FURTHER INFORMATION CONTACT:** In order to obtain an application package,

contact William H. Whalen, U.S. Department of Education, 600 Independence Avenue S.W., Switzer Building, Room 3411, Washington, D.C. 20202. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

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**Program Authority:** 29 U.S.C. 760–762.

Dated: May 23, 1995.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

**Appendix**

*Application Forms and Instructions*

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

FREQUENT QUESTIONS

1. CAN I GET AN EXTENSION OF THE DUE DATE?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. WHAT SHOULD BE INCLUDED IN THE APPLICATION?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. WHAT FORMAT SHOULD BE USED FOR THE APPLICATION?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. MAY I SUBMIT APPLICATIONS TO MORE THAN ONE NIDRR PROGRAM COMPETITION OR MORE THAN ONE APPLICATION TO A PROGRAM?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. WHAT IS THE ALLOWABLE INDIRECT COST RATE?

The limits on indirect costs vary according to the program and the type of application.

Applicants in the FIR and SCI grants programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate. Applicants for projects in the Research Training and Career Development program are limited to an indirect rate of 8 percent. There are no indirect charges permitted in the Fellowship program.

6. CAN PROFITMAKING BUSINESSES APPLY FOR GRANTS?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. CAN INDIVIDUALS APPLY FOR GRANTS?

No. Only organizations are eligible to apply for grants under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. CAN NIDRR STAFF ADVISE ME WHETHER MY PROJECT IS OF INTEREST TO NIDRR OR LIKELY TO BE FUNDED?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. HOW DO I ASSURE THAT MY APPLICATION WILL BE REFERRED TO THE MOST APPROPRIATE PANEL FOR REVIEW?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. HOW SOON AFTER SUBMITTING MY APPLICATION CAN I FIND OUT IF IT WILL BE FUNDED?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. CAN I CALL NIDRR TO FIND OUT IF MY APPLICATION IS BEING FUNDED?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. IF MY APPLCIATION IS SUCCESSFUL, CAN I ASSUME I WILL GET THE REQUESTED BUDGET AMOUNT IN SUBSEQUENT YEARS?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justificaiton must be submitted for each year of the project and there will be negotiations on the budget each year.

13. WILL ALL APPROVED APPLICATIONS BE FUNDED?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

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**

## 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: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). |
| 3. | State use only (if applicable). |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>— "New" means a new assistance award.<br>— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>— "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 title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

| Name of Institution/Organization | Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form. |
|---|---|

## SECTION B - BUDGET SUMMARY
## NON-FEDERAL FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | **Total (f)** |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

## SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

| U.S. DEPARTMENT OF EDUCATION<br>BUDGET INFORMATION<br>NON-CONSTRUCTION PROGRAMS | OMB Control No. 1875-0102<br>Expiration Date: 9/30/95 |
|---|---|
| Name of Institution/Organization | Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form. |

## SECTION A - BUDGET SUMMARY
## U.S. DEPARTMENT OF EDUCATION FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | Total (f) |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

ED FORM NO. 524

Public reporting burden for these collections of information is estimated to average 30 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 these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

Research Fellowships (CFDA No. 84.133F) 34 CFR Part 356.

Field-Initiated Research (CFDA No. 84.133G) 34 CFR Parts 350 and 357.

OMB Approval No. 0348-0040

## ASSURANCES — NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to 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.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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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 andto 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 of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | TITLE |
|---|---|
| APPLICANT ORGANIZATION | DATE SUBMITTED |

# Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "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.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| NAME OF APPLICANT | PR/AWARD NUMBER AND/OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

## CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

### 1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) 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 making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

### 2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for 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 three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant 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 on-going 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 10 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: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3),

Washington, DC 20202-4571. 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).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

## DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

---

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

| NAME OF APPLICANT | PR/AWARD NUMBER AND/OR PROJECT NAME |
|---|---|
| | |
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| | |
| SIGNATURE | DATE |
| | |

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

# DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
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<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | ☐ a. bid/offer/application<br>b. initial award<br>c. post-award | ☐ a. initial filing<br>b. material change<br>For Material Change Only:<br>year _____ quarter _____<br>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<br>Tier _____, *if known*:<br><br>Congressional District, *if known*: | Congressional District, *if known*: |
| 6. Federal Department/Agency: | 7. Federal Program Name/Description:<br><br>CFDA Number, *if applicable*: _____ |
| 8. Federal Action Number, *if known*: | 9. Award Amount, *if known*:<br>$ |
| 10. a. Name and Address of Lobbying Entity<br>*(if individual, last name, first name, MI)*: | b. Individuals Performing Services *(including address if different from No. 10a)*<br>*(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<br>☐ b. one-time fee<br>☐ c. commission<br>☐ d. contingent fee<br>☐ e. deferred<br>☐ f. other; specify: _____ |
| 12. Form of Payment *(check all that apply)*:<br>☐ a. cash<br>☐ b. in-kind; specify: nature _____<br>value _____ | |

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

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Standard Form - LLL

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

## DISCLOSURE OF LOBBYING ACTIVITIES
## CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page ____ of ____

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Standard Form - LLL-A

[FR Doc. 95–3064 Filed 5–26–95; 8:45 am]
BILLING CODE 4000–01–C

federal register

Tuesday
May 30, 1995

Part V

# Department of Commerce

## Economic Development Administration

**Economic Development Assistance Program for Disaster Relief Activities, Southeast Floods of 1994, Availability of Funds; Notice**

## DEPARTMENT OF COMMERCE

## Economic Development Administration

**[Docket No. 95–0522138–5138–01]**

## Economic Development Assistance Program for Disaster Relief Activities, Southeast Floods of 1994, Availability of Funds

**AGENCY:** Economic Development Administration (EDA), Department of Commerce, (DoC).

**ACTION:** Notice.

**SUMMARY:** The Economic Development Administration (EDA) announces the policies and the application procedures for funds available to support disaster relief programs designed to assist affected states and local communities to recover from the consequences of the Southeast Floods of 1994, and for other disasters.

EDA offers a variety of program tools to assist affected communities. The primary emphasis of EDA's program will be to assist flood-impacted areas with the development and implementation of strategies that are needed for long-term economic relief, including planning and technical assistance; the capitalization and recapitalization of Revolving Loan Funds; the construction of new and expanded infrastructure and development facilities required for economic development of the area; and other economic development programs designed to alleviate the economic distress of the areas.

**DATES:** This announcement is effective May 30, 1995. Funds shall remain available until expended.

**ADDRESSES:** To establish merits of project proposals, interested parties should contact the Atlanta Regional Office or the appropriate Economic Development Representative for the area (see listing in Appendix A).

**FOR FURTHER INFORMATION CONTACT:** See listing in Appendix A of this Notice.

**SUPPLEMENTARY INFORMATION:** *Buy American-Made Equipment or Products*—Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–317, Sections 607 (a) and (b).

Refer to the Notice published on March 14, 1995, in the **Federal Register** (60 FR 13866) for information on EDA's general policies and other requirements.

**Authority:** Support for this program is authorized under the contingency fund provided to EDA under Title VII, Public Law 103–317 (Fiscal Year 1994 Supplemental Appropriations).

### Catalog of Federal Domestic Assistance (CFDA)

The Special Economic Development and Adjustment Assistance Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED) is listed under CFDA 11.307 (13 CFR Part 308). Planning and Technical Assistance are listed under CFDA 11.302, 11.305 and 11.303 (13 CFR Part 307, Subpart A; and 13 CFR Part 307, Subpart D).

### Funding Availability

Funds in the amount of $50 million are available for this disaster relief program and shall remain available until expended. The funds are available for awarding disaster assistance grants pursuant to the Public Works and Economic Development Act of 1965, as amended.

### Grant Rates

Grant rates, as established by the Public Works and Economic Development Act of 1965, as amended (PWEDA) and its implementing regulations at 13 CFR chapter III, may vary if permitted by PWEDA and its implementing regulations, and depending on the relative needs and financial capacity of applicants. In most cases, a nonfederal local share will be required. In rare and extenuating circumstances, EDA may waive the local share requirement where permitted by the PWEDA and its implementing regulations at 13 CFR chapter III. Local share requirements are discussed in the **Federal Register** of March 14, 1995, (60 FR 13866) announcing the policies and application procedures for EDA's FY 1995 programs.

### Eligible Applicants

Eligible applicants include any of the states or political subdivisions thereof, including municipalities, and economic development districts, Indian tribes, and nonprofit corporations representing an EDA designated redevelopment area or part thereof located in areas affected by the Southeast Floods of 1994, and other disasters. Eligible applicants are further identified in the **Federal Register** of March 14, 1995, (60 FR 13866).

### Proposal Submission Procedures

Proposals for assistance authorized under Title VII, Chapter I, of Public Law 103–317 shall be submitted to the Atlanta Regional Office or Economic Development Representative for the area, as noted in Appendix A. Applicants must clearly demonstrate how the EDA assistance will help the area recover from the economic hardship and other problems caused by the floods, or other disasters, and that such assistance has been preceded by sound planning. Interested parties should contact the appropriate office for a proposal package.

### Application Procedures

A determination of whether to invite a grant application for EDA assistance will be issued based upon the outcome of the Agency's review of the applicant's preliminary application/proposal. Application procedures, competitive selection criteria and post approval project implementation information for the applicable assistance are described in the **Federal Register** of March 14, 1995, (60 FR 13866) announcing EDA's Notice of Availability of Funds for FY 1995.

### Funding Instrument:

Funds will be awarded as grants in accordance with the requirements of Title III and Title IX of the Public Works and Economic Development Act of 1965, as amended (Public Law 89–136; 42 U.S.C. 3121 et seq.) (PWEDA). The appropriate title for grant application and award will be determined by EDA based on the nature of the project and the eligibility of the area.

Dated: May 15, 1995.

**Wilbur F. Hawkins,**

*Acting Assistant Secretary for Economic Development.*

### Appendix A

For further information contact the Atlanta Regional Office or the appropriate Economic Development Representative (EDR) listed below: Atlanta Regional Office, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002.

| EDRs | States covered |
|---|---|
| Wayne F. Burnette, Aronov Building, Room 134, 474 South Court Street, Montgomery, AL 36104, Telephone: (205) 223–7008. | Alabama. |
| Lola B. Smith, Federal Bldg., Room 423, 80 North Hughey Avenue, Orlando, FL 32801, Telephone: (407) 648–6572. | Florida. |
| William J. Day, Jr., 401 West Peachtree Street, N.W., Atlanta, GA 30308–3510, Telephone: (404) 730–3000. | Georgia. |

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Tuesday
May 30, 1995

Part VI

# Department of Housing and Urban Development

**NOFA for Youth Development Initiative Under Public and Indian Housing Family Investment Centers; Notice**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Public and Indian Housing

**[FR–3841–N–01]**

### NOFA for Youth Development Initiative Under Public and Indian Housing Family Investment Centers

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of funding availability.

**SUMMARY:** HUD is announcing the availability of up to $10 million in funding for Fiscal Year 1995 for a Youth Development Initiative under the Family Investment Center Program (FIC). The Youth Development Initiative under FIC will provide up to approximately 10 grants for innovative violence abatement strategies that have been developed by youth for public housing. The Youth Development Initiative advances the goals of the Clinton Administration's Operation Safe Home, a major initiative that addresses the larger problem of violence in America's low-income communities. The Youth Development Initiative will provide young individuals (ages 13–25), including noncustodial parents with child support agreements for children that are public housing residents and who would be capable of meeting their obligations by being provided such services, with better access to comprehensive education and employment opportunities and supportive services. The grants will be for up to 3 to 5 years in duration, depending upon the activities undertaken, and will involve youth as active partners, to provide leadership opportunities and improve the capacity for long-term training and services for young residents. The final rule on this program was published in the **Federal Register** on August 24, 1994, as subpart D of 24 CFR part 964.

In the body of this document is information concerning the purpose of the NOFA, eligibility, available amounts, rating factors, and application processing, including how to apply and how selections will be made.

**DATES:** Application kits will be available beginning May 30, 1995. The application deadline will be 3:00 p.m., local time, on June 29, 1995.

**ADDRESSES:** An application kit may be obtained from the local HUD Field Office with delegated responsibilities over an applicant public housing agency (see Appendix for listing; applicants in the State of Oklahoma should either contact the HUD office in Denver, Colorado or call the Clearinghouse), or by calling the HUD Community Relations and Involvement Clearinghouse toll-free number 1–800–955–2232. Telephone requests must include your name, mailing address, or post office address (including zip code), telephone number (including area code), and should refer to document FR–3841. This NOFA cannot be used as the application.

**FOR FURTHER INFORMATION CONTACT:** Bertha M. Jones, Office of Community Relations and Involvement (OCRI), Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410; telephone number: (202) 708–3611 (this is not a toll-free number). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or 202–708–9300 (not a toll-free number) for information on the program.

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0189.

### I. Purpose and Substantive Description

*A. Authority*

Section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t) provides for the establishment of Family Investment Centers (FIC). The final rule implementing the FIC Program for public housing was published on August 24, 1994 (59 FR 43622), as part 964, subpart D.

*B. Allocation Amounts*

In this NOFA, up to $10 million is being made available to public housing agencies (PHAs) for the Youth Development Initiative to further Operation Safe Home. The Department's intention to use the total of $10 million for Youth Development Initiative activities was announced in the NOFA for Public and Indian Housing Family Investment Centers, published on February 15, 1995 (60 FR 8900).

The FIC Youth Development Initiative grants awarded under this NOFA will be targeted to assist youth in gaining access to education, employment, and supportive services. HUD expects that this funding will demonstrate the importance of comprehensive supportive services in contributing to the reduction of unemployment among our youth and crime and violence in public housing communities. This Youth Development Initiative requires that the funded actions be designed and implemented by the targeted youth, in partnership with the PHA.

Each applicant may submit only one application under this NOFA. The maximum grant amount per applicant under this NOFA is $1 million. As explained in the February 15, 1995, FIC NOFA, both PHAs and IHAs are eligible applicants in the main FIC NOFA, but only PHAs may apply for the set-aside funds announced in this Youth Initiative NOFA.

*C. Overview and Policy*

The stated purpose of Section 22 for FIC is:

> [T]o provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by: (a) Developing facilities in or near public housing for training and support services; (b) mobilizing public and private resources to expand and improve the delivery of such services; (c) providing funding for such essential training and support services that cannot otherwise be funded; and (d) improving the capacity of management to assess the training and service needs of families, coordinate the provision of training and services that meet such needs, and ensure the long-term provision of such training and services.

Although Section 22 is phrased in terms of ''families'' living in public housing, because of section 527 of the National Affordable Housing Act (104 Stat. 4216; 42 U.S.C. 1437aa note) (NAHA), the definition of ''families'' may be used interchangeably as individuals. This special Initiative is being made available to individuals (youths, ages 13–25), including noncustodial parents with child support agreements for children living in public housing and who would be made capable of meeting their obligations by being provided these services.

The Department envisions that this Initiative under FIC will complement other youth programs, drug elimination efforts, and Youth Sports activities to increase the rates of school completion, enrollment in advanced education, or training and employment. PHAs that are recipients of or applicants for other programs with youth training opportunities must coordinate this FIC Youth Development Initiative with these programs. As an incentive to becoming self-sufficient, the earnings of public housing youths participating in

this Youth Development Initiative shall not be treated as income for the purpose of rent calculation, and services are not treated as income for the purposes of any other program or provision of State or Federal law, including rent assistance, subject to the limitations set out in Section I.F(5), ''Treatment of Income,'' of this NOFA. This Initiative is administered by the Department's Office of Community Relations and Involvement in the Office of Public and Indian Housing, with assistance from a network of Community Relations and Involvement Specialists in HUD Field Offices.

*D. Definitions*

For purposes of this NOFA, the following definitions apply:

*Eligible Residents* means public housing residents aged 13–25 of a participating PHA, including noncustodial parents with child support agreements for children living in public housing when those parents would be made capable of meeting their obligations by being provided services.

*Secretary* means the Secretary of Housing and Urban Development.

*Service Coordinator* means any person, including youth, who is responsible for:

(1) Determining the eligibility of individuals to be served by this Youth Development Initiative;

(2) Assessing training and service needs of eligible residents;

(3) Working with service providers to coordinate the provision of services on a PHA-wide or less-than-PHA-wide basis, and to tailor the services to the needs and characteristics of eligible residents;

(4) Mobilizing public and private resources to ensure that the supportive services identified can be funded over the 5-year period, at least, following the initial receipt of funding under this NOFA;

(5) Monitoring and evaluating the delivery, impact, and effectiveness of any supportive service funded with capital or operating assistance under this program;

(6) Coordinating the development and implementation of this Youth FIC Initiative with other self-sufficiency programs and other education and employment programs; or

(7) Performing other duties and functions that are appropriate for providing eligible residents with better access to educational and employment opportunities.

*Supportive Services* means new or significantly expanded services essential to providing youth in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence. (PHAs applying for funds to provide supportive services must demonstrate that the services will be provided at a higher level than currently provided). Program funds may be used for the provision of not more than 15 percent of the cost of any supportive services (which may be provided directly to eligible residents by the public housing agency or by contract or lease through other appropriate agencies or providers). Supportive services may include:

(1) Child care, of a type that provides sufficient hours of operation and serves appropriate ages as needed to facilitate parental access to education and job opportunities;

(2) Employment training and counseling (*e.g.*, job training, preparation and counseling, job development and placement, business management training and entrepreneurship development, and follow-up assistance after job placement);

(3) Computer skills training;

(4) Entrepreneurship training;

(5) Education (*e.g.*, remedial education, literacy training, completion of secondary or post-secondary education, and assistance in the attainment of certificates of high school equivalency);

(5) Transportation as necessary to enable any participating youth to receive available services or to commute to his or her place of employment;

(6) Personal welfare (*e.g.*, substance/alcohol abuse treatment and counseling, self-development counseling, etc.);

(7) Supportive Health Care Services (*e.g.*, outreach and referral services); and

(8) Any other services and resources, including case management, that are determined to be appropriate in assisting eligible residents.

*Vacant Unit* means a dwelling unit that is not under an effective lease to an eligible family. An effective lease is a lease under which an eligible family has a right to possession of the unit and is being charged rent, even if the amount of any utility allowance equals or exceeds the amount of a total tenant payment that is based on income and, as a result, the amount paid by the family to the PHA is zero.

*E. Eligibility*

(1) Eligible Applicants

Funding for this program is limited to public housing authorities. Housing Authorities with Section 8 oversight (only) are *not* eligible to apply for funds under this NOFA. Facilities assisted shall be on or near the premises of public housing. For all families using FIC services, other than eligible residents (as defined in Section I.D of this NOFA), any additional costs incurred are to be borne by other resources.

To be eligible under this NOFA, a PHA cannot have serious unaddressed, outstanding Inspector General audit findings; fair housing and equal opportunity monitoring review findings; or Field Office management review findings. In addition, the PHA must be in compliance with civil rights laws and equal opportunity requirements. A PHA will be considered to be in compliance if:

(a) As a result of formal administrative proceedings, there are no outstanding findings of noncompliance with civil rights laws unless the PHA is operating in compliance with a HUD-approved compliance agreement designed to correct the area(s) of noncompliance;

(b) There is no adjudication of a civil rights violation in a civil action brought against it by a private individual, unless the PHA demonstrates that it is operating in compliance with a court order, or implementing a HUD-approved resident selection and assignment plan or compliance agreement, designed to correct the area(s) of noncompliance;

(c) There is no deferral of Federal funding based upon civil rights violations;

(d) HUD has not deferred application processing by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and HUD's Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1) or under Section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57);

(e) There is no pending civil rights suit brought against the PHA by the Department of Justice; and

(f) There is no unresolved charge of discrimination against the PHA issued by the Secretary under Section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

(2) Eligible Activities

To develop such a Youth Development Initiative, program funds may be used for the following activities to guarantee youth access to comprehensive services:

(a) The renovation, conversion, or combination of vacant dwelling units in a PHA development to create common areas to accommodate the provision of supportive services;

(b) The renovation of existing common areas in a PHA development to

accommodate the provision of supportive services;

(c) The renovation, acquisition, or construction of facilities located near the premises of one or more PHA developments to accommodate the provision of supportive services. Under this NOFA, acquisition and new construction will be treated the same as substantial rehabilitation (renovation/conversion) activities, for such purposes as rating and submission requirements.

(d) The provision of not more than 15 percent of the total cost of supportive services (which may be provided directly to eligible residents by the PHA or by contract or lease through other appropriate agencies or providers), but only if the PHA demonstrates that:

(i) The supportive services are appropriate to improve the access of eligible residents for employment and educational opportunities; and

(ii) The PHA has made diligent efforts to use or obtain other available resources to fund or provide such services.

(3) Eligible Costs

Costs that may be covered for activities funded and carried out by a housing authority include, but are not limited to, the following:

(a) *Administrative Costs.* No cap. Costs that are reasonable and include maintenance, utility costs (telephone, fax, light, gas), postage, printing, copier, building leasing/rent costs, accounting staff, and initial equipment purchase (i.e., desks, chairs, computer equipment, tools, etc.);

(b) *Other Program Costs.* Costs that include advertisement, reimbursement for participants of Youth FIC, insurance liability costs (personal property/property off housing authority site), and Technical Assistance (T/A) contractor fees, etc.;

(c) *Supportive Services.* Grant funds may be used to fund a maximum of 15 percent of the total cost of providing supportive services. Direct service delivery includes the costs of training programs, day care services, manpower, etc.;

(d) *Site Facility/Renovation/Conversion/Construction/Acquisition Costs.* Costs include: Renovation/conversion/construction/acquisition, architectural and engineering (and related professional services required to prepare architectural plans or drawings, write-ups, specifications, or inspections); and

(e) The employment of service coordinators.

(4) Other Eligibility Related Requirements

(a) Grants used solely for renovation/conversion/acquisition/new construction activities listed in paragraphs (a), (b), or (c) of Section I.E(2), ''Eligible Activities,'' of this NOFA, shall be completed within 3 years of the effective date of the grant. Other eligible activities may be funded over a maximum 5-year period.

(b) Each applicant should submit a description of the supportive services activities and/or the renovation or conversion to be conducted, along with a budget and timetable for those activities. This description should include the PHA's plans to:

(i) Ensure provision of employment, on-the-job training and work experience, education, child care, transportation, and assistance in resolving personal or family crises;

(ii) Encourage the active involvement of local labor unions, junior and senior high schools, 2- and 4-year post-secondary institutions, and community agencies; and

(iii) Ensure outreach and recruitment efforts and integrate service delivery, intake assessment, and case management.

(c) Each applicant must submit a budget, timetable, and list of milestones for the 5-year period (following initial receipt of funding), at least, covered by the applicant's description of supportive services. Milestones shall include the number of youth to be served, types of services, and dollar amounts to be allocated over the 5-year period.

(d) Each applicant must demonstrate a firm commitment of assistance from one or more sources ensuring that supportive services will be provided for not less than 1 year following the completion of activities funded under this NOFA.

(e) When a grant application is approved, the PHA must receive approval from HUD to conduct renovation or conversions. Approval must be provided prior to drawing down funds.

(f) If a renovation is done off-site, the PHA must provide documentation that it has control of the proposed property. Control can be evidenced through a lease agreement, ownership documentation, or other appropriate documentation (see Sections III.B(4) and III.C(14) of this NOFA).

*F. Other Program Requirements*

(1) *Youth/Resident Involvement.* The Department has a longstanding policy of encouraging PHAs to promote resident involvement and to facilitate cooperative partnerships to achieve specific and mutual goals. Therefore, youth/residents must be included in the planning and implementation of this program. The PHA shall develop a process that assures that public housing youth, through their Resident Councils, if feasible, are active partners in the development of the content of the PHA's application in response to this NOFA. The PHA shall give full consideration to the comments and concerns of the youth representatives. The Department envisions that the youth representatives will work in concert with the duly elected Resident Council. The process shall include:

(a) Informing youth of the selected developments regarding the preparation of the application and providing for residents to become active partners in the development of the application.

(b) Once a draft application has been prepared, the PHA shall make a copy available for reading in the management office; provide copies of the draft to the duly-elected resident organization representing the residents of the developments involved; and provide adequate opportunity for comment by all residents, including youth, of the development and their representative organizations prior to making the application final. A copy of all comments shall be kept on file for review, at the residents' request, by the duly elected Resident Council and HUD.

(c) After HUD approval of a grant, notify youth and other residents of the development, and any representative organizations, of approval of the grant; notify the youth of the availability of the HUD-approved implementation schedule in the management office for reading; and develop a system to facilitate a regular youth role in all aspects of program implementation.

(2) *Training/Employment of PHA Youth Residents.* (a) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) requires that programs of direct financial assistance administered by HUD provide, to the greatest extent feasible, opportunities for job training and employment to lower income residents in connection with projects in their neighborhoods. The requirements of Section 3 have been implemented in 24 CFR part 135 by an interim rule published on June 30, 1994 ( 59 FR 33866). At a minimum each PHA, and each of its contractors and subcontractors receiving funds under this program, shall make best efforts to employ PHA residents in connection with housing rehabilitation, housing construction, and other public construction projects.

(b) For purposes of the requirements under Section 3, a best effort means that the PHA shall:

(1) Attempt to recruit PHA youth from the appropriate areas through Resident/Youth Councils, local advertising media, signs placed at the proposed FIC project site, and community organizations and public or private institutions operating within the development area. The PHA shall include in its outreach and marketing efforts, procedures to attract the least likely to apply for this program because it includes construction/renovation/conversion types of activities, *i.e.*, low-income households headed by women and persons with disabilities; and

(2) Determine the qualifications of PHA residents when they apply, either on their own or on referral from any source, and employ PHA youth if their qualifications are satisfactory and the contractor has openings. If the PHA is unable to employ youth determined to be qualified, those residents shall be listed for the first available openings.

(3) *Davis-Bacon Requirements.* All laborers and mechanics employed by contractors or the PHA in renovation or conversion (including combining of units) on the premises of the PHA development to accommodate the provision of supportive services under this program shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5). All architects, technical engineers, draftsmen, and technicians employed with respect to such work shall be paid not less than the wages prevailing in the locality as determined by HUD. These requirements do not apply to volunteers under the conditions set out in 24 CFR part 70.

(4) *Youth/Resident Compensation.* Residents employed to provide services funded under this program or described in the application shall be paid at a rate not less than the highest of:

(a) The minimum wage that would be applicable to the employees under the Fair Labor Standards Act of 1938 (FLSA), if section 6(a)(1) of the FLSA applied to the resident and if the resident were not exempt under section 13 of the FLSA;

(b) The State or local minimum wage for the most nearly comparable covered employment; or

(c) The prevailing rate of pay for persons employed in similar public occupations by the same employer.

(5) *Treatment of Income.* (a) *1937 Act.* As provided in section 22(i) of the United States Housing Act of 1937 (1937 Act), no service provided to a PHA resident under this program may be treated as income for the purpose of any other program or provision of State, or Federal law. Program participation shall begin on the first day the resident enters training or begins to receive services. Furthermore, the earnings of and benefits to any PHA youth resulting from participation in the FIC program shall not be considered as income in computing the tenant's total annual income that is used to determine the tenant rental payment during:

(i) The period that the youth participates in the program; and

(ii) The period that begins with the commencement of employment of the youth in the first job acquired by the youth after completion of the program that is not funded by assistance under the 1937 Act, and ends on the earlier of:

(*A*) The date the youth ceases to continue employment without good cause; or

(*B*) The expiration of the 18-month period beginning on the date of commencement of employment in the first job not funded by assistance under this program.

(6) *Reports.* Each PHA receiving a grant shall submit to HUD an annual progress report, participant evaluation and assessment data, and other information, as needed, regarding the effectiveness of the Youth Development Initiative in providing youth with access to education and job opportunities and supportive services.

*G. Rating Factors*

Each application for grant award will be evaluated if it is submitted as required under Section II.B of this NOFA and meets the eligibility requirements in Section I.E of this NOFA. Applications will be placed in three funding categories, but ranked using Rating Factors for either Combination Funding Requests or Supportive Services Only. The three funding categories are as follows: (1) Supportive Services Only; (2) Renovation/Conversion/Acquisition/New Construction; and (3) Combination Supportive Services/Renovation/Conversion/Acquisition/New Construction Activities. Applications submitted for funds solely to implement supportive services will be competitively selected based on the highest scores out of a possible 100 points, using Rating Factors for Supportive Services Only. Applications submitted for funds that include renovation/conversion (including acquisition and new construction) or combination of dwelling unit activities will be competitively selected based on the highest scores out of a possible 100 points, using Rating Factors for Combination Funding Requests. Grants will be awarded to approximately the 10 highest-ranked eligible applicants in the nation. All of the funds will be awarded based on project size and geographical diversity. HUD reserves the right to select applications out of rank order, if necessary to achieve geographic diversity.

HUD will review and evaluate the application as follows, according to whether the application seeks funds for Supportive Services Only, or for renovation, conversion, acquisition, or new construction activities, or for Combination Funding:

*Combination Funding Requests—Renovation/Conversion/Acquisition/New Construction/Supportive Services Activities* (Maximum 100 points). If the applicant is proposing to build or rehabilitate a facility to render programmatic services, applications will be scored on the following factors:

(a) *Evidence of the need for supportive services by eligible residents (Maximum: 35 points):*

- A high score of 26–35 points is achieved where the applicant provides a detailed needs assessment of eligible residents, clearly identifies specific target areas of concern, and documents milestone results and benefits to be derived from resident participation in Youth FIC services.
- A medium score of 13–25 points is achieved where the applicant provides a general needs assessment of eligible residents, identifies target areas, but does not provide milestone results to be derived from resident participation in Youth FIC services.
- A low score of 1–12 points is achieved where the applicant merely mentions there is a need for services, but does not clearly address specific areas of concern.

(b) *Youth Resident Involvement/Local Partnerships (Maximum: 25 points)*: The extent to which the housing authority has demonstrated that it has partnered with residents in the implementation phase (evidence of such a partnership may be in the form of a resident council board resolution or letter), and will contract with or employ youth residents to provide services and conduct renovation/conversion/construction activities. In assigning points for this factor, HUD shall also consider the extent of the involvement of social service agencies in the development of the application. The commitment of these agencies may be demonstrated through evidence of intent to provide direct financial assistance or other resources, such as social services (i.e., counseling and training); funds

available through existing State and local programs; or other commitments.

- A high score of 18–25 points is received where the applicant provides evidence that it has a strong and cooperative partnership with its youth residents and that youth residents were involved in the development of the application; the applicant will continue its involvement throughout the implementation stages of the Youth FIC, including providing input identifying resident needs; and the applicant will contract with or employ youth residents to provide services and conduct renovation/conversion/construction activities. The applicant also provides evidence in a resolution or by certification in a letter that social service agencies intend to provide various resources to the Youth FIC; i.e., sources committed, availability of funds, etc.
- A medium score of 9–17 points is received where the applicant mentions its partnership with youth residents. While the residents were notified of the Youth FIC (although not involved in the development of the application), the applicant ensures that their role will be increased during the implementation stages of the Youth FIC and states its intent to provide services (even though the plan for hiring and contracting is not specific). The applicant provides certification in letter or a resolution that it is currently implementing a similar program (volunteer) utilizing partnerships with service agencies in its locality. Evidence also is provided of social service agencies' intent to provide various resources to the Youth FIC; i.e., source committed, availability of funds, etc.; and
- A low score of 1–8 points is received where the applicant mentions a partnership, but evidence of such support is not provided. The applicant mentions its efforts at coordinating the Youth FIC facility in a target area, but does not include evidence of commitments from existing local, State, or Federal sources.

(c) *Capability (Maximum: 20 points)*: (1) The capability of the housing authority or designated service provider to provide the supportive services; (2) the extent to which the housing authority has demonstrated success in modernization activities under the Comprehensive Grant/Comprehensive Improvement Assistance (CIAP) Programs (see CFR part 968); and (3) the extent to which the housing authority has a good record of maintaining and operating public housing, as determined by the Public Housing Management Assessment Program (PHMAP) (see 24 CFR part 901), and has utilized innovative and workable strategies to improve management.

- A high score of 14–20 points is received where the applicant: (a) Demonstrates success in providing similar supportive services programs and has clearly detailed how the services were coordinated and complemented with other programs; and (b) the applicant's PHMAP score is in the ''high performer'' range.
- A medium score of 7–13 points is received where the applicant does not currently provide similar programs, but demonstrates how the services will be coordinated and complemented with other programs. The applicant's PHMAP score is in the ''standard'' range (60 or greater, but less than 90). In addition, the housing authority has clearly identified innovative strategies to improve management of its developments.
- A low score of 1–6 points is received where it is unclear if the applicant or designated service provider has experience in providing similar supportive services programs. The applicant's PHMAP score is in the ''troubled'' range (less than 60); however, it is currently implementing local, State, or Federal partnerships in efforts to develop effective strategies to improve its management capacity.

(d) *Sustainability/Program Quality (Maximum: 20 points)*: (1) The extent to which the housing authority and each service provider have evidenced that supportive services and other resources will be provided for 5 years following the receipt of funding for supportive services under this NOFA, or 3 years following the completion of renovation/conversion/construction/acquisition activities; (2) the extent to which the housing authority has demonstrated that it will commit to its Youth FIC part of its formula allocation of Comprehensive Grant Program (CGP)/Comprehensive Improvement Assistance Program (CIAP) funds for CGP/CIAP eligible activities that result in employment, training, and contracting opportunities for eligible residents; and (3) the extent to which the envisioned renovation/conversion/construction/acquisition and combination activities are appropriate to facilitate the provision of Youth FIC supportive services.

- A high score of 14–20 points is received where the applicant provides letters from service providers that contain a strong commitment to providing services and other resources (i.e., direct financial staff, training/educational) over the grant period; clearly documents its current use of CGP/CIAP funds toward eligible Youth FIC activities; and provides the following:

—A detailed description of the location of the Youth FIC, the coordination of services proposed at the facility, and the area to be served by the Youth FIC; and

—Evidence that the facility is appropriate for the proposed Youth FIC Activity. This evidence should clearly indicate the facility's accessibility to residents, including its distance and the transportation necessary to receive services.

- A medium score of 7–13 points is received where the applicant provides letters or narrative language regarding the commitment of service providers, but the providers are limiting in their commitment to providing services; does not currently have CGP/CIAP funding, but has made clear its intention to use part of future CGP/CIAP funding toward eligible Youth FIC activities; and provides a good description of the facility location, however its accessibility to residents is somewhat unclear.
- A low score of 1–6 points is received where the applicant merely mentions that services will be provided, but does not provide letters; does not make clear any intention to use part of its current or future CGP/CIAP funding toward eligible Youth FIC activities; and mentions the location of the Youth FIC facility, but does not provide specific details regarding the appropriateness or accessibility or distance to residents.

*Supportive Services Only*

(a) *Evidence of Need for supportive services [Maximum: 35 points]:*

- A high score of 26–35 points is achieved where the applicant provides a detailed needs assessment of eligible residents, clearly identifies specific target areas of concern, and documents milestone results and benefits to be derived from resident participation in Youth FIC services.
- A medium score of 13–25 points is achieved where the applicant provides a general needs assessment of eligible residents, identifies target areas, but does not provide milestone results to be derived from resident participation in FIC services.
- A low score of 1–12 points is achieved where the applicant merely mentions there is a need for services, but does not clearly address specific areas of concern.

(b) *Youth Resident Involvement/Local Partnerships (Maximum: 25 points)*: The extent to which the housing authority has demonstrated that it has partnered with youth residents in the planning phase of the Youth FIC, will further

include the residents in the implementation phase (evidence of such a partnership may be in the form of a resident council board resolution or letter), and will contract with or employ youth residents to provide services. In addition, HUD shall consider the extent of the involvement of social services agencies in the development of the application and the commitment of those agencies to providing direct financial assistance or other resources, such as social services (i.e., counseling and training), funds available through existing State and local programs, or other commitments.

- A high score of 18–25 points is received where the applicant provides evidence that it has a strong and cooperative partnership with its youth residents and that youth residents were involved in the development of the application; the applicant will continue its involvement throughout the implementation stages of the Youth FIC, including providing input identifying resident needs; and the applicant will contract with or employ residents to provide services. The applicant also provides evidence by resolution or certification in a letter that social service agencies intend to provide various resources to the Youth FIC; i.e., sources committed, availability of funds, etc.
- A medium score of 9–17 points is received where the applicant mentions its partnership with residents. While the residents were notified of the Youth FIC (although not involved in the development of the application), the applicant ensures that the residents' role will be increased during the implementation stages of the Youth FIC and states its intent to provide services (even though the plan for hiring and contracting is not specific). The applicant provides certification in a letter or a resolution that it is currently implementing a similar program (volunteer) utilizing partnerships with service agencies in its locality. Evidence also is provided of social service agencies' intent to provide various resources to the Youth FIC; i.e., source committed, availability of funds, etc.; and
- A low score of 1–8 points is received where applicant mentions a partnership, but evidence of such support is not provided. The applicant mentions its efforts at coordinating the Youth FIC facility in a target area, but does not include evidence of commitments from existing local, State, Federal sources.

(c) *Capability (Maximum: 20 points)*: (1) The capability of the housing authority or designated service provider to provide the supportive services; and (2) the extent to which the housing authority has a good record of maintaining and operating public housing, as determined by the Public Housing Management Assessment Program (PHMAP) (see 24 CFR part 901), and has utilized innovative and workable strategies to improve management.

- A high score of 14–20 points is received where the applicant: (a) Demonstrates success in providing similar supportive services programs and has clearly detailed how the services were coordinated and complemented with other programs; (b) the applicant's PHMAP score is in the ''high performer'' range.
- A medium score of 7–13 points is received where the applicant does not currently provide similar programs, but demonstrates how the services will be coordinated and complemented with other programs. The applicant's PHMAP score is in the ''standard'' range (60 or greater but less than 90). In addition, the housing authority has clearly identified innovative strategies to improve management of its developments.
- A low score of 1–6 points is received where it is unclear if the applicant or designated service provider has experience in providing similar supportive services programs. The applicant's PHMAP score is in the ''troubled'' range (less than 60); however, it is currently implementing local, State, or Federal partnerships in efforts to develop effective strategies to improve its management capacity.

(d) *Sustainability/Program Quality (Maximum: 20 points)*: (1) The extent to which the housing authority and each service provider have evidenced that supportive services and other resources will be provided for 5 years following the receipt of funding for supportive services under this NOFA; and (2) the extent to which the housing authority has demonstrated that it will commit to its Youth FIC part of its formula allocation of Comprehensive Grant Program (CGP)/Comprehensive Improvement Assistance Program (CIAP) funds for eligible activities that result in employment, training, and contracting opportunities that are appropriate to facilitate the provision of Youth FIC supportive services.

- A high score of 14–20 points is received where the applicant provides letters from service providers that contain their strong commitment to providing services and other resources (i.e., direct financial staff, training/educational) over the grant period; clearly documents its current use of CGP/CIAP funds toward eligible Youth FIC activities; and provides the following:

—A detailed description of the location of the Youth FIC, the coordination of services proposed at the facility, and the area to be served by the Youth FIC; and

—Evidence clearly indicating the accessibility of the FIC facility to residents, including the distance to the facility and the transportation necessary to receive services.

- A medium score of 7–13 points is received where the applicant provides letters or narrative language regarding commitment of service providers, but the providers are limiting in their commitment to providing services; does not currently have CGP/CIAP funding, but has made clear its intention to use part of future CGP/CIAP funding toward eligible Youth FIC activities; and provides a description of the facility location, but its accessibility to residents is somewhat unclear.
- A low score of 1–6 points is received where the applicant merely mentions that services will be provided, but does not provide letters; does not make clear any intention to use part of its current or future CGP/CIAP funding toward eligible Youth FIC activities; and mentions the location of the Youth FIC facility, but does not provide specific details regarding its accessibility or distance to residents.

*H. Environmental Review*

Any environmental impact regarding eligible activities will be addressed through an environmental review of that activity as required by 24 CFR part 50, including the applicable related laws and authorities under § 50.4, to be completed by HUD, to ensure that any environmental impact will be addressed before assistance is provided to the PHA. Grantees will be expected to adhere to all assurances applicable to environmental concerns as contained in this NOFA and grant agreements.

## II. Application Submissions Process

*A. Application Kit*

An application kit is required as the formal submission to apply for funding. The kit includes information and guidance on preparation of a Plan and Budget for activities proposed by the applicant. This process facilitates the execution of the grant for those selected to receive funding. An application may be obtained from the local HUD Field Offices with delegated responsibilities over an applying PHA (See Appendix A for listing; applicants in the State of Oklahoma should either contact the HUD office in Denver, Colorado or call

the Clearinghouse), or by calling HUD's Community Relations and Involvement Clearinghouse toll free number 1–800–955–2232. Requests for application kits must include your name, mailing address or P.O. Box (including zip code), and telephone number (including area code), and should refer to document FR–3841. Applications may be requested beginning May 30, 1995.

*B. Application Submission*

The original and two copies of the application must be submitted. The Appendix lists addresses of HUD Field Offices that will accept the completed application. Applications for the Youth FIC Program should not exceed 30 pages. Each applicant should provide the name of its congressional Representative and District in its narrative description of the proposed project.

The application must be physically received by 3:00 p.m., local time, on June 29, 1995. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their applications to avoid any risk of loss of eligibility brought on by unanticipated delays or other delivery-related problems. Facsimile and telegraphic applications are not authorized and shall not be considered.

**III. Checklist of Application Submission Requirements**

The Application Kit will contain a checklist of all application submission requirements to complete the application process.

A. *Applications for Supportive Services Only* must contain the following information:

(1) Name and address (or P.O. Box) of the PHA. Name and telephone number of contact person (in the event further information or clarification is needed during the application review process);

(2) SF–424A, Budget Information, Non-Construction Programs, and SF–424B, Assurances, Non-Construction Programs;

(3) A description of the need for supportive services by eligible youth residents;

(4) A description of the supportive services that are to be provided over at least a 5-year period after the initial receipt of funding under this NOFA, and 1 year following the completion of activities funded under this NOFA, and how the supportive services will enhance education and job opportunities for youth residents;

(5) Evidence of a firm commitment of assistance from one or more sources ensuring that the supportive services will be provided for not less than three years following the completion of activities funded under this NOFA. Evidence shall be in the form of a letter or resolution. A cost allocation plan shall be submitted outlining the 1-year commitment;

(6) A description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

(7) A description of the plan for continuing operation of the Youth FIC, and the provision of services to youth after completion of the later of: (i) 5 years following the initial receipt of funding under this NOFA; or (ii) 1 year following the completion of activities funded under this NOFA;

(8) A certification from an appropriate service agency (in the case of FSS, the certification may be from the Coordinating Committee) that:

(a) The provision of supportive services is well designed to provide youth with better access to educational and employment opportunities; and

(b) There is a reasonable likelihood that such services will be funded or provided for the entire 5-year period, at least, after the initial receipt of funding under this NOFA.

(9) A description of assistance for which the PHA is applying;

(10) A narrative on the location of the Youth FIC facility. Provide the precise location of the facility to be used for Youth FIC, and indicate its accessibility to residents, including distance from the development(s), and transportation necessary to receive services;

(11) Evidence that the PHA has control of the Youth FIC site. If the facility is off-site, the PHA shall include copies of the negotiated lease and the terms, an option to lease, indicating that the facility is available to the PHA for use as a Youth FIC for the period ending the later of: (1) 5 years following the initial receipt of funding under this NOFA, or (ii) 1 year following the completion of activities funded under this NOFA;

(12) A certification that funds used to pay for a Service Coordinator are not duplicate expenses from any other program;

(13) A description of the youth involvement and participation in the planning and implementation phases of this program;

(14) A description of the services that PHA residents will be employed to provide;

(15) Letters of commitment. The letters should identify all commitments for additional resources to be made available to the program from the applicant and other State, local, or private entities. The description shall include, but is not limited to, the commitment source, source committed, availability and use of funds, and other conditions associated with the loan, grant, gift, donation, contribution, etc. Commitments from State or local agencies may include, but are not limited to, vocational, adult, and bilingual education; Job Training Partnership Act (JTPA) and Family Support Act of 1988 job training programs; child care; and social services assistance, counseling or drug addiction services. Commitments may include in-kind contributions, on-site journeymen or equivalent instructors, transportation, or other resources for use by participants of the Youth FIC;

(16) Certification that efforts were made to use or obtain other resources to fund or provide the services proposed;

(17) Certification of the extent to which the PHA will commit to its Youth FIC part of its formula allocation of Comprehensive Grant Program (CGP) funds/Comprehensive Improvement Assistance (CIAP) funds for CGP/CIAP eligible activities that result in employment, training, and contracting opportunities for eligible residents, if applicable;

(18) A project budget, timetable and narrative;

(19) Certification that Youth FIC funding will not duplicate any other HUD funding, including CGP funding.

(20) Equal Opportunity Requirements. The PHA must certify that it will carry out activities assisted under the program in compliance with:

(a) The requirements of the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations at 24 CFR parts 100, 107, 109, 110, and 121; and Executive Order 11063 (Equal Opportunity Housing implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146; the prohibition against discrimination

against individuals with a disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; and the requirements of Executive Order 11246 and the implementing regulations issued at 41 CFR chapter 60;

(c) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and implementing regulations at 24 CFR part 135; and

(d) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this notice.

(21) Form HUD–2880, Applicant/Recipient Disclosure Update Report must be completed in accordance with 24 CFR part 12, Accountability in the Provision of HUD Assistance. A copy is provided in the application kit.

(22) Drug-Free Workplace Certification. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees of federal agencies to certify that they will provide drug-free workplaces. Each potential recipient under this NOFA must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

(23) Certification regarding Lobbying. Section 319 of the Department of the Interior Appropriations Act, Pub. L. 101–121, approved October 23, 1989 (31 U.S.C. 1352) (the ''Byrd Amendment'') generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The Department's regulations on these restrictions on lobbying are codified at 24 CFR part 87. To comply with 24 CFR 87.110, any PHA submitting an application under this announcement for more than $100,000 of budget authority must submit a certification and, if applicable, a Disclosure of Lobbying Activities (SF–LLL form).

(24) A certification that:

(a) The PHA will include in any contract for renovation or conversion (including combining of units) on the premises of the PHA development to accommodate the provision of supportive services under this program, a requirement that all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a–5);

(b) The PHA will include in such contracts a requirement that all architects, technical engineers, draftsmen, and technicians (other than volunteers) shall be paid not less than the wages prevailing in the locality as determined by HUD; and

(c) The PHA will pay such wage rates to its own employees engaged in this work.

B. *Applications for Renovation/Conversion/Construction/Acquisition Activities Only* must contain the following information:

(1) Name and address (or P.O. Box) of the PHA. Name and telephone number of contact person (in the event further information or clarification is needed during the application review process);

(2) A narrative on the location of the off-site facility, if applicable. Provide the precise location of the Youth FIC facility (street address) and indicate its accessibility to residents, including distance from the development(s), and transportation necessary to receive services;

(3) A narrative description of how the funds will be used;

(4) Evidence that the PHA has control of the proposed premises. This shall include copies of the negotiated lease and the terms, an option to lease, indicating that the facility will be available to the PHA for use as a Youth FIC for the period ending the later of: (i) 5 years following the initial receipt of funding under this NOFA; or (ii) 1 year following the completion of activities funded under this NOFA;

(5) A description of services that the PHA expects to be provided, to the greatest extent practicable, by youth residents, as described in Section I.F(2) of this NOFA. The Description shall include the position titles and numbers of youth expected to be employed for renovation/conversion/construction activities;

(6) Certification of the extent to which the PHA will commit to its Youth FIC part of its formula allocation of Comprehensive Grant Program (CGP) funds for CGP eligible activities that result in employment, training, and contracting opportunities for eligible residents;

(7) A project budget, timetable and narrative;

(8) Certification that Youth FIC funding will not duplicate any other HUD funding, including CGP funding.

(9) *Equal Opportunity Requirements.* The PHA must certify that it will carry out activities assisted under the program in compliance with:

(a) The requirements of the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations at 24 CFR parts 100, 107, 109, 110, and 121; and Executive Order 11063 (Equal Opportunity Housing implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146; the prohibition against discrimination against individuals with a disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8 and Title II or the Americans with Disabilities Act of 1009 (42 U.S.C. 12131) and implementing regulation at 28 CFR part 35; and the requirements of Executive Order 11246 and the implementing regulations issued at 41 CFR chapter 60;

(c) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and implementing regulations at 24 CFR part 135; and

(d) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this notice.

(10) Evidence of a firm commitment of assistance from one or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities funded under this NOFA. Evidence shall be in the form of a letter or resolution. A cost allocation plan shall be submitted outlining the 1-year commitment;

(11) Form HUD–2880, Applicant/Recipient Disclosure Update Report must be completed in accordance with 24 CFR part 12, Accountability in the Provision of HUD Assistance. A copy is provided in the application kit.

(12) Drug-Free Workplace Certification. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees of federal agencies to certify that they will provide drug-free workplaces. Each potential recipient under this NOFA must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

(13) Certification regarding Lobbying. Section 319 of the Department of the Interior Appropriations Act, Pub. L. 101–121, approved October 23, 1989 (31 U.S.C. 1352) (the ''Byrd Amendment'') generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The Department's regulations on these restrictions on lobbying are codified at 24 CFR part 87. To comply with 24 CFR 87.110, any PHA submitting an application under this announcement for more than $100,000 of budget authority must submit a certification and, if applicable, a Disclosure of Lobbying Activities (SF–LLL form).

(14) A certification that:

(a) The PHA will include in any contract for renovation or conversion (including combining of units) on the premises of the PHA development to accommodate the provision of supportive services under this program, a requirement that all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a–5);

(b) The PHA will include in such contracts a requirement that all architects, technical engineers, draftsmen, and technicians (other than volunteers) shall be paid not less than the wages prevailing in the locality as determined by HUD;

(c) The PHA will pay such wage rates to its own employees engaged in this work; and

(d) If new construction is undertaken, the PHA has looked at other appropriate facilities and cannot make those usable for FIC purposes.

C. *Applications for Both Supportive Services and Renovation/Conversion/ Construction/Acquisition Activities* must contain the following information:

(1) Name and address (or P.O. Box) of the PHA. Name and telephone number of contact person (in the event further information or clarification is needed during the application review process);

(2) SF–424A, Budget Information, Non-Construction Programs, and SF–424B, Assurances, Non-Construction Programs;

(3) A description of assistance for which the PHA is applying;

(4) A description of the need for supportive services by eligible residents;

(5) Evidence of a firm commitment of assistance from one or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities funded under this NOFA. Evidence shall be in the form of a letter or resolution. A cost allocation plan shall be submitted outlining the 1-year commitment;

(6) A description of the plan for continuing operation of the Youth FIC and the provision of supportive services to families after the later of: (i) 5 years following the initial receipt of funding under this NOFA; or (ii) 1 year following the completion of activities funded under this NOFA;

(7) A description of services that the PHA expects to be provided, to the greatest extent practicable by PHA residents as provided under Section I.F(2) of this NOFA;

(8) A description of the positions and numbers of residents expected to be employed for renovation, conversion, and other eligible activities;

(9) A description of the youth involvement in the planning and implementation phases of this program;

(10) Certification of the extent to which the PHA will commit to its Youth FIC part of its formula allocation of Comprehensive Grant Program (CGP) funds for CGP eligible activities that result in employment, training, and contracting opportunities for eligible residents;

(11) A project budget, timetable, and narrative;

(12) Letters of commitment. Identify all commitments for additional resources to be made available to the program from the applicant and other State, local, or private entities. The description shall include, but is not limited to, the commitment source, source committed, availability and use of funds, and other conditions associated with the loan, grant, gift, donation, contribution, etc. Commitments from State or local agencies may include, but are not limited to, vocational, adult, and bilingual education; JTPA and Family Support Act of 1988 job training programs; child care; and social services assistance, counseling or drug addiction services. Commitments may include in-kind contributions, on-site journeymen or equivalent instructors, transportation, or other resources for use by participants of the FIC.

(13) A narrative on the location of the facility. Provide the precise location of the Youth FIC facility (street address) and its accessibility to residents including distance from the development(s), and transportation necessary to receive services;

(14) Evidence that the PHA has control of the proposed off-site premises. This shall include copies of the negotiated lease and the terms, an option to lease, indicating that the facility will be available to the PHA for use as a Youth FIC for the period ending the later of: (i) 5 years following the initial receipt of funding under this NOFA; or (ii) 1 year following the completion of activities funded under this NOFA;

(15) Certification that Youth FIC funding will not duplicate any other HUD funding, including CGP funding;

(16) *Equal Opportunity Requirements.* The PHA must certify that it will carry out activities assisted under the program in compliance with:

(a) The requirements of the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations at 24 CFR parts 100, 107, 109, 110, and 121; and Executive Order 11063 (Equal Opportunity Housing implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146; the prohibition against discrimination against individuals with a disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8 and Title II or the Americans with Disabilities Act of 1009 (42 U.S.C. 12131) and implementing regulation at 28 CFR part 35; and the requirements of Executive Order 11246 and the implementing regulations issued at 41 CFR chapter 60;

(c) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and implementing regulations at 24 CFR part 135; and

(d) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this notice.

(17) Form HUD–2880, Applicant/ Recipient Disclosure Update Report must be completed in accordance with 24 CFR part 12, Accountability in the Provision of HUD Assistance. A copy is provided in the application kit.

(18) Drug-Free Workplace Certification. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees of federal agencies to certify

that they will provide drug-free workplaces. Each potential recipient under this NOFA must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

(19) Certification regarding Lobbying. Section 319 of the Department of the Interior Appropriations Act, Pub. L. 101–121, approved October 23, 1989 (31 U.S.C. 1352) (the ''Byrd Amendment'') generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The Department's regulations on these restrictions on lobbying are codified at 24 CFR part 87. To comply with 24 CFR 87.110, any PHA submitting an application under this announcement for more than $100,000 of budget authority must submit a certification and, if applicable, a Disclosure of Lobbying Activities (SF–LLL form).

(20) A certification that:

(a) The PHA will include in any contract for renovation or conversion (including combining of units) on the premises of the PHA development to accommodate the provision of supportive services under this program, a requirement that all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) shall be paid not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a–5);

(b) The PHA will include in such contracts a requirement that all architects, technical engineers, draftsmen, and technicians (other than volunteers) shall be paid not less than the wages prevailing in the locality as determined by HUD.

(c) If new construction is undertaken, the PHA has looked at other appropriate facilities and cannot make those usable for FIC purposes.

## IV. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items, such as certifications or assurances, or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD will disqualify the application.

This 14-day cure period applies only to nonsubstantive deficiencies or errors. Deficiencies capable of cure will involve only items not necessary for HUD to assess the merits of an application against the rating factors specified in this NOFA.

## V. Other Matters

*A. Other Federal Requirements*

In addition to the Equal Opportunity Requirements set forth in Section III, Checklist of Application Submission Requirements, of this NOFA, grantees must comply with the following requirements:

(1) *Ineligible contractors.* The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(2) *Flood insurance.* No building proposed for acquisition, construction, reconstruction, repair, or improvement to be assisted under this program may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding such hazards, and the grantee ensures that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

(3) *Lead-based paint.* The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), and implementing regulations at 24 CFR parts 35, 965, and 968.

(4) *Applicability of OMB Circulars.* The policies, guidelines, and requirements of OMB Circular Nos. A–110 (and implementing regulations at 24 CFR part 84) and A–122 with respect to the acceptance and use of assistance by private nonprofit organizations.

(5) *Relocation and Real Property Acquisition.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, apply to the acquisition of real property for an assisted project and the displacement of any person (family, individual, business, nonprofit organization, or farm) as a direct result of acquisition, rehabilitation, or demolition for the project.

*B. Environmental Review*

A finding of no significant impact with respect to the environment has been made for the NOFA for Public and Indian Housing Family Investment Centers, in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); this finding applies equally to this NOFA. The finding of no significant impact is available for public inspection and copying Monday through Friday during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

*C. Executive Order 12612, Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The notice announces the availability of funds to provide youth living in public housing, or with children living in public housing, with better access to education and job opportunities to achieve self-sufficiency and independence.

*D. Executive Order 12606, the Family*

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice has potential for a significant impact on family formation, maintenance, and general well-being. The purpose of the notice is to provide funding to assist youth living in public housing, or with children living in public housing, with better access to education and job opportunities to achieve self-sufficiency and independence, and, thus, could benefit families. However, because the impact on families is beneficial, no further review is considered necessary.

*E. Section 102 HUD Reform Act: Documentation and Public Access Requirements*

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

*F. Section 103 of the HUD Reform Act*

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) is codified as 24 CFR part 4 and applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

*G. Section 112 of the Reform Act*

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by regulations published at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of that part. Any questions about part 86 should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–3000. Telephone: (202) 708–3815 (voice/TDD) (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

*H. Freedom of Information Act*

Applications submitted in response to this NOFA are subject to disclosure under the Freedom of Information Act (FOIA). To assist the Department in determining whether to release information contained in an application in the event a FOIA request is received, and applicant may, through clear earmarking, or otherwise, indicate those portions of its application that it believes should not be disclosed. The applicant's views will be used solely to aid the Department in preparing its response to a FOIA request; however, the Department is required by the FOIA to make an independent evaluation of the information.

HUD suggests that an applicant provide a basis, when possible, for its belief that confidential treatment is appropriate; general assertions or blanket requests for confidentiality, without more information, are of limited value to the Department in making determinations concerning the release of information under FOIA. The Department is required to segregate disclosable information from nondisclosable items, so an applicant should be careful to identify each portion of the application for which confidential treatment is requested.

The Department emphasizes that the presence or absence of comments or earmarking regarding confidential information will have no bearing on the evaluation of applications submitted in response to this solicitation.

*I. Prohibition Against Lobbying Activities*

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act of Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

**Authority:** 42 U.S.C. 1437t and 3535(d).

Dated: May 4, 1995.

**Joseph Shuldiner,**

*Assistant Secretary for Public and Indian Housing.*

**Appendix—Names, Addresses, and Telephone Numbers of HUD Field Offices Accepting Applications for Youth Development Initiative Under Family Investment Centers**

**HUD—New England Area—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont**

*Boston, Massachusetts HUD Field Office*

Public Housing Division, Thomas P. O'Neill, Jr. Federal Building,10 Causeway Street, Room 375, Boston, MA 02222–1092, (617) 565–5234, TDD Number: (617) 565–5453 Office hours: 8:30am–5:00pm local time

*Hartford, Connecticut HUD Field Office*

Public Housing Division, 330 Main Street, Hartford, Connecticut 06106–1860, (203) 240–4522, TDD Number: (203) 240–4665, Office hours: 8:00am–4:30pm local time

*Manchester, New Hampshire HUD Field Office*

Public Housing Division, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TDD Number: (603) 666–

7518, Office hours: 8:00am–4:30pm local time

*Providence, Rhode Island HUD Field Office*

Public Housing Division, 10 Weybosset Street, Sixth Floor, Providence, Rhode Island 02903–2808, (401) 528–5351, TDD Number: (401) 528–5364, Office hours: 8:00am–4:30pm local time

**HUD—New York, New Jersey Area—New York, New Jersey**

*New York HUD Field Office*

Public Housing Division, 26 Federal Plaza, New York, New York 10278–0068, (212) 264–6500, TDD Number: (212) 264–0927, Office hours: 8:30am–5:00pm local time

*Buffalo, New York HUD Field Office*

Public Housing Division, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780, (716) 846–5755, TDD Number: Number not available, Office hours: 8:00am–4:30pm local time

*Newark, New Jersey HUD Field Office*

Public Housing Division, One Newark Center—12th Floor, Newark, New Jersey 07102–5260, (201) 622–7900, TDD Number: (201) 645–6649, Office hours: 8:30am–5:00pm local time

**HUD—Midatlantic Area—Pennsylvania, Washington DC, Maryland, Delaware, Virginia, West Virginia**

*Philadelphia, Pennsylvania HUD Field Office*

Public Housing Division, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392, (215) 597–2560, TDD Number: (215) 597–5564, Office hours: 8:00am–4:30pm local time

*Washington, D.C. HUD Field Office*

Public Housing Division, 820 First Street NE., Washington, DC 20002–4502, (202) 275–9200, TDD Number: (202) 275–0967, Office hours: 8:00am–4:30pm local time

*Baltimore, Maryland HUD Field Office*

Public Housing Division, 10 South Howard Street, 5th Floor, Baltimore, Maryland 21201–2505, (401) 962–2520, TDD Number: (410) 962–0106, Office hours: 8:00am–4:30pm local time

*Pittsburgh, Pennsylvania HUD Field Office*

Public Housing Division, Old Post Office Courthouse Building, 700 Grant Street, Pittsburgh, Pennsylvania 15219–1939, (412) 644–6428 TDD Number: (412) 644–5747, Office hours: 8:00am–4:30pm local time

*Richmond, Virginia HUD Field Office*

Public Housing Division, The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, Virginia 23230–0331, (804) 278–4507,TDD Number: (804) 278–4501, Office hours: 8:00am–4:30pm local time

*Charleston, West Virginia HUD Field Office*

Public Housing Division, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795, (304) 347–7000, TDD Number: (304) 347–5332, Office hours: 8:00am–4:30pm local time,

**HUD—Southeast Area—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands**

*Atlanta, Georgia HUD Field OFfice*

Public Housing Division, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, (404) 331–5136, TDD Number: (404) 730–2654, Office hours: 8:00am–4:30pm local time

*Birmingham, Alabama HUD Field Office*

Public Housing Division, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 290–7601, TDD Number: (205) 290–7624, Office hours: 7:45am–4:30pm local time

*Louisville, Kentucky HUD Field Office*

Public Housing Division, 601 West Broadway, P.O. Box 1044, Louisville, Kentucky 40201–1044, (502) 582–6161, TDD Number: (502) 582–5139

*Jackson, Mississippi HUD Field Office*

Public Housing Division, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 975–4746, TDD Number: (601) 975–4717, Office hours: 8:00am–4:45pm local time

*Greensboro, North Carolina HUD Field Office*

Public Housing Division, 2306 West Meadowview Road, Greensboro, North Carolina 27407, (919) 547–4000, TDD Number: 919–547–4055, Office hours: 8:00am–4:45pm local time

*Caribbean HUD Field Office*

Public Housing Division, New San Office Building, 159 Carlos East Chardon Avenue, San Juan, Puerto Rico 00918–1804, (809) 766–6121, TDD Number: Number not available, Office hours: 8:00am–4:30pm local time

*Columbia, South Carolina HUD Field Office*

Public Housing Division, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5592, TDD Number: Number not available, Office hours: 8:00am–4:45pm local time

*Knoxville, Tennessee HUD Field Office*

Public Housing Division, John J. Duncan Federal Building, 710 Locust Street, SW., Room 333, Knoxville, Tennessee 37902–2526, (615) 545–4384, TDD Number: (615) 545–4379, Office hours: 7:30am–4:15pm local time

*Nashville, Tennessee HUD Field Office*

Public Housing Division, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213, TDD Number: (615) 736–2886, Office hours: 7:45am–4:15pm local time

*Jacksonville, Florida HUD Field Office*

Public Housing Division, Southern Bell Towers, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–5121, (904) 232–2626, TDD Number: (904) 232–2357, Office hours: 7:45am–4:30pm local time

**HUD—Midwest Area Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin**

*Chicago, Illinois HUD Field Office*

Public Housing Division, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–5680, TTD Number: (312) 353–7143, Office hours: 8:15am–4:45pm local time

*Detroit, Michigan HUD Field Office*

Public Housing Division, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 1645, Detroit, Michigan 48226–2592, (313) 226–6880, TDD Number: (313) 226–7812, Office hours: 8:00am–4:30pm local time

*Indianapolis, Indiana HUD Field Office*

Public Housing Division, 151 North Delaware Street, Suite 1200, Indianapolis, Indiana 46204–2526, (317) 226–6303, TDD Number: (317)226–7081, Office hours: 8:00am–4:45pm local time

*Grand Rapids, Michigan HUD Field Office*

Public Housing Division, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505–3499, (616) 456–2127, TDD Number: Number not available, Office hours: 8:00am–4:45pm local time

*Minneapolis—St. Paul, Minnesota HUD Field Office*

Public Housing Division, Bridge Place Building, 220 2nd Street South, Minneapolis, Minnesota 55401–2195, (612) 370–3000, TTD Number: (612) 370–3186, Office hours: 8:00am–4:30pm local time

*Cincinnati, Ohio HUD Field Office*

Public Housing Division, 525 Vine Street, Suite 700, Cincinnati, Ohio 45202–3188, (513) 684–2884, TDD Number: (513) 684–6180, Office hours: 8:00am–4:45pm local time

*Cleveland, Ohio HUD Field Office*

Public Housing Division, Renaissance Building, 1375 Euclid Avenue, Fifth Floor, Cleveland, Ohio 44115–1815, (216) 522–4065, TTD Number: Number not available, Office hours: 8:00am–4:40pm local time

*Columbus, Ohio HUD Field Office*

Public Housing Division, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737, TDD Number: Number not available, Office hours: 8:30am–4:45pm local time

*Milwaukee, Wisconsin HUD Field Office*

Public Housing Division, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214, TDD Number: Number not available, Office hours: 8:00am–4:30pm local time

**HUD—Southwest Area—Arkansas, Louisiana, New Mexico, Oklahoma, Texas**

*Fort Worth, Texas HUD Field Office*

Public Housing Division, 1600 Throckmorton Street, Room 304, P.O. Box 2905, Fort

Worth, Texas 76113–2905, (817) 885–5934, TDD Number: (817) 885–5447, Office hours: 8:00am–4:30pm local time

*Houston, Texas HUD Field Office*

Public Housing Division, Norfolk Tower, 2211 Norfolk, Suite 300, Houston, Texas 77098–4096, (713) 834–3235, TDD Number: Number not available, Office hours: 7:45am–4:30pm local time

*San Antonio, Texas HUD Field Office*

Public Housing Division, Washington Square, 800 Dolorosa Street, Room 206, San Antonio, Texas 78207–4563, (512) 229–6783, TDD Number: (512) 229–6783, Office hours: 8:00am–4:30pm local time

*Little Rock, Arkansas HUD Field Office*

Public Housing Division, TCBY Tower, 425 West Capitol Avenue, Room 900, Little Rock, Arkansas 72201–3488, (501) 324–5935, TDD Number: (501) 324–5931, Office hours: 8:00am–4:30pm local time

*New Orleans, Louisiana HUD Field Office*

Public Housing Division, Fisk Federal Building, 1661 Canal Street, Suite 3100, New Orleans, Louisiana 70112–2887, (504) 589–7251, TDD Number: Number not available, Office hours: 8:00am–4:30pm local time

*Oklahoma City, Oklahoma HUD Field Office*

(Applications for the State of Oklahoma are to be submitted to the Denver, Colorado, HUD Office:

Public Housing Division, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5248, TDD Number: (303) 672–5248, Office hours: 8:00am–4:30pm local time)

*Albuquerque, New Mexico HUD Field Office*

Public Housing Division, 625 Truman Street N.E., Albuquerque, NM 87110–6472, (505) 262–6463, TDD Number: (505) 262–6463, Office hours: 7:45am–4:30pm local time

**Great Plains—Iowa, Kansas, Missouri, Nebraska**

*Kansas City, Kansas HUD Field Office*

Public Housing Division, Gateway Tower II, 400 State Avenue, Room 400, Kansas City, Kansas 66101–2406, (913) 551–5488, TDD Number: (913) 551–5815, Office hours: 8:00am–4:30pm local time

*Omaha, Nebraska HUD Field Office*

Public Housing Division, 10909 Mill Valley Road, Omaha, Nebraska 68154–3955, (402) 492–3100, TDD Number: (402) 492–3183, Office hours: 8:00am–4:30pm local time

*St. Louis, Missouri HUD Field Office*

Public Housing Division, 1222 Spruce Street, St. Louis, Missouri 63103–2836, (314) 539–6583, TDD Number: (314) 539–6331, Office hours: 8:00am–4:30pm local time

*Des Moines, Iowa HUD Field Office*

Public Housing Division, Federal Building, 210 Walnut Street, Room 239, Des Moines, Iowa 50309–2155, (515) 284–4512, TDD Number: (515) 284–4728, Office hours: 8:00am–4:30pm local time

**HUD—Rocky Mountains Area—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming**

*Denver, Colorado HUD Field Office*

Public Housing Division, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5248, TDD Number: (303) 672–5248, Office hours: 8:00am–4:30pm local time

**HUD—Pacific/Hawaii Area—Arizona, California, Hawaii, Nevada, Guam, America Samoa**

*San Francisco, California HUD Field Office*

Public Housing Division, Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102–3448, (415) 556–4752, TDD Number: (415) 556–8357, Office hours: 8:15am–4:45pm local time

*Honolulu, Hawaii HUD Field Office*

Public Housing Division, 7 Waterfront Plaza, 500 Ala Moana Boulevard, Room 500, Honolulu, Hawaii 96813–4918, (808) 541–1323, TDD Number: (808) 541–1356, Office hours: 8:00am–4:00pm local time

*Los Angeles, California HUD Field Office*

Public Housing Division, 1615 West Olympic Boulevard, Los Angeles, California 90015–3801, (213) 251–7122, TDD Number: (213) 251–7038, Office hours: 8:00am–4:30pm local time

*Sacramento, California HUD Field Office*

Public Housing Division, 777 12th Avenue, Suite 200, P.O. Box 1978, Sacramento, California 95814–1997, (916) 498–5270, TDD Number: (916) 498–5220, Office hours: 8:00am–4:30pm local time

*Phoenix, Arizona HUD Field Office*

Public Housing Division, Two Arizona Center, 400 North 5th Street, Suite 1600, Phoenix, Arizona 85004–2361, (602) 261–4434, TDD Number: (602) 379–4461, Office hours: 8:00am–4:30pm local time

**HUD—Northwest/Alaska Area—Alaska, Idaho, Oregon, Washington**

*Seattle, Washington HUD Field Office*

Public Housing Division, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, (206) 220–5292, TDD Number: (206) 220–5185, Office hours: 8:00am–4:30pm local time

*Portland, Oregon HUD Field Office*

Public Housing Division, 520 S.W. 6th Avenue, Portland, Oregon 97203–1596, (503) 326–2561, TDD Number: (503) 326–3656, Office hours: 8:00am–4:30pm local time

*Anchorage, Alaska HUD Field Office*

Public Housing Division, University Plaza Building, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4170, TDD Number: (907) 271–4328

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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, 1995. 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.

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