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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV95–946–1FIR]

Irish Potatoes Grown in Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that generated funds to pay those expenses. Authorization of this budget enables the State of Washington Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, Washington potatoes are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes handled during the 1995–96 fiscal period, which begins July 1, 1995, and ends June 30, 1996. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 450 producers of Washington potatoes under this marketing order, and approximately 50 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995–96 fiscal period was prepared by the State of Washington Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Washington potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

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

The Committee met February 22, 1995, and unanimously recommended a 1995–96 budget of $42,300, $4,200 more than the previous year. Budget items for 1995–96 which have increased compared to those budgeted for 1994–95 (in parentheses) are: Miscellaneous, $2,000 ($1,500), audit, $1,500 ($1,000), and compliance audits, $6,000 ($5,200). The Committee also recommended $400 for social security tax expenses for which no funding was recommended separately last year and $17,400 for an agreement with the Washington State Potato Commission to provide certain services to the Committee as specified in the agreement. Included in the $17,400 for this year are salaries and salary expenses which were budgeted separately last year at $11,200 and $1,800 and other expenses which were $2,400 for last year. In this year's

budget, these items are included under the Commission agreement.

The Committee also unanimously recommended an assessment rate of $0.003 per hundredweight, $0.002 less than last season. This rate, when applied to anticipated shipments of 9 million hundredweight, will yield $27,000 in assessment income. This, along with $15,300 from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve as of March 31, 1995, were $75,025, which is within the maximum permitted by the order of two fiscal periods' expenses.

An interim final rule was published in the **Federal Register** on April 6, 1995 (60 FR 17433). That interim final rule added § 946.247 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through May 8, 1995. No comments were received.

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

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

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Accordingly, the interim final rule adding § 946.247 which was published at 60 FR 17433, is adopted as a final rule without change.

Dated: May 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–13238 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 948

[Docket No. FV95–948–1IFR]

Irish Potatoes Grown in Colorado; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 948 for the 1995–96 fiscal period. Authorization of this budget enables the Colorado Potato Administrative Committee, Northern Colorado Office (Area III) (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by June 30, 1995, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724.

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

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Colorado potatoes are subject to assessments. Funds to administer the Colorado potato marketing order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes during the 1995–96 fiscal period, which begins July 1, 1995, and ends June 30, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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

There are approximately 85 producers of Colorado Area III potatoes under the marketing order and approximately 15 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of

Colorado Area III potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Colorado Potato Administrative Committee, Northern Colorado Office (Area III), the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Colorado Area III potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

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

In Colorado, both a State and a Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. All expenses in this category are financed under the State order. The jointly operated programs consume about equal administrative time and the two orders continue to split administrative costs equally.

The Committee met on April 13, 1995, and unanimously recommended a 1995-96 budget of $27,362.50, $3,037.50 more than the previous year. Budget items for the 1995-96 Federal portion of the administrative budget which have increased compared to those budgeted for 1994-95 (in parentheses) are: Audit, $450 ($400), medical insurance, $685 ($620), office equipment, $4,500 ($2,000), payroll tax, $902.50 ($880), Federal meetings, $500 ($400), and $300 for other salary for which no funding was recommended last year.

The Committee also unanimously recommended an assessment rate of $0.02 per hundredweight, the same as last season. This rate, when applied to anticipated potato shipments of 1,200,500 hundredweight, will yield $24,010 in assessment income. This, along with $1,500 in interest income, $1,200 in rent from the sublease of office space to the State inspection service, and $652.50 from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1995-96 fiscal period, estimated at $35,195, will be within the maximum permitted by the order of two fiscal periods' expenses.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal period begins on July 1, 1995, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

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

Authority: 7 U.S.C. 601–674.

2. A new § 948.213 is added to read as follows:

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

§ 948.213 Expenses and assessment rate.

Expenses of $27,362.50 by the Colorado Potato Administrative Committee, Northern Colorado Office (Area III) are authorized, and an assessment rate of $0.02 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: May 24, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–13237 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–02–P

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Parts 1955, 1962, and 1965

Administrative Changes to Provide Authority to Approve Releases of Liability in Connection with Voluntary Liquidations

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Consolidated Farm Service Agency (CFSA) is the successor to the Farmers Home Administration pursuant to Section 226 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, October 13, 1994). The CFSA amends its Property Management, Chattel Property, and Real Property regulations to conform with changes made to its debt settlement regulations in April 1993. These conforming changes are made to give State Directors release of liability authority for borrowers whose total indebtness is less than one million dollars. The intended effect is to expedite the processing of requests from borrowers who are unable to repay all of their CFSA debts.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Edward R. Yaxley, Jr., Senior Loan Officer, Farm Credit Programs Loan Servicing and Property Management Division, Consolidated Farm Service Agency, USDA, room 5449, South Agriculture Building, 14th and Independence Avenue SW.,

Washington, DC 20250, telephone (202) 720–4572.

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 because it involves only internal agency management and it has no impact on CFSA borrowers or other members of the public. This action is not published for notice and comment under the Administrative Procedure Act since the changes only involve internal processing of documents by CFSA employees which will expedite the administrative review process for releases of liability, permitting more timely debt relief to CFSA borrowers, and consequently reducing the Agency's portfolio of inactive uncollectible accounts. It is published so that CFSA borrowers will be aware of the authority of State Directors to execute releases from liability for certain debts.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 057–0109 and 057–0086. This final rule does not revise or impose any new information collection requirement from those previously approved by OMB.

Background

The CFSA amends its Property Management, Chattel Property, and Real Property regulations to conform with changes made to its debt settlement regulations on April 21, 1993 (58 FR 21344). These conforming changes are made to give State Directors release of liability authority for borrowers whose total indebtness (including principal, interest and other charges) is less than one million dollars. This action only involves internal processing of documents by CFSA employees which will expedite the administrative review process for releases of liability, permitting more timely debt relief to CFSA borrowers, and consequently reducing the Agency's portfolio of inactive uncollectible accounts. It is helpful to CFSA borrowers to know the authority levels for releases of liability by State Directors. The procedure for the release in all cases is set forth in 7 CFR part 1956, subpart B.

CFSA amends subpart A of part 1955:

(1) Section 1955.10(f)(2) to give State Directors authority to accept and process offers to convey real property when the unsatisfied CFSA indebtness is less than $1,000,000.

(2) Section 1955.20(b)(2) to give State Directors authority to accept and process offers to convey chattel property when the unsatisfied CFSA indebtness is less than $1,000,000.

CFSA amends subpart A of part 1962:

(1) Section 1962.34(h) to give State Directors authority to approve the transfer and assumption of CFSA accounts to eligible and ineligible transferees and release the transferors of liability when the CFSA debt secured by chattels minus their market value is less than $1,000,000.

CFSA amends subpart A of part 1965:

(1) Section 1965.26(f)(5)(ii) to give State Directors authority to approve release of liability for borrowers whose outstanding CFSA debt after a cash sale of real property is less than $1,000,000.

(2) Section 1965.27(f) to give State Directors authority to approve the transfer and assumption of CFSA accounts to eligible and ineligible transferees and release the transferors of liability when the CFSA debt secured by real property minus its market value is less than $1,000,000.

Programs Affected

The programs are listed in the Catalog of Federal Domestic Assistance (CFDA) under:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' CFSA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects

7 CFR Part 1955

Foreclosure, Government acquired property.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1955—PROPERTY MANAGEMENT

1. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

2. Section 1955.10 is amended by revising the third and the last sentences of paragraph (f)(2)(ii) to read as follows:

§ 1955.10 Voluntary conveyance of real property by the borrower to the Government.

* * * * *

(f) * * *

(2) * * *

(ii) * * * When the Agency debt less the market value and prior liens is $1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. All cases requiring a release of liability will be submitted for review in accordance with exhibit A of subpart B of part 1956 of this chapter (available in any CFSA office).

* * * * *

3. Section 1955.20 is amended by revising the third sentence of paragraph (b)(2) to read as follows:

§ 1955.20 Acquisition of chattel property.

* * * * *

(b) * * *

(2) * * * When the Agency debt less the market value and prior liens is $1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. * * *

* * * * *

PART 1962—PERSONAL PROPERTY

4. The authority citation for part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

5. Section 1962.34 is amended by revising the second sentence of paragraph (h) to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

* * * * *

(h) * * * When the Agency debt less the market value and prior liens is $1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. * * *

PART 1965—REAL PROPERTY

6. The authority citation for part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

7. Section 1965.26 is amended by revising the first sentence of paragraph (f)(5)(ii) to read as follows:

§ 1965.26 Liquidation action.

* * * * *

(f) * * *

(5) * * *

(ii) When the Agency debt less the market value and prior liens is $1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. * * *

* * * * *

8. Section 1965.27 is amended by revising the second sentence of paragraph (f) to read as follows:

§ 1965.27 Transfer of real estate security.

* * * * *

(f) * * * When the Agency debt less the market value and prior liens is $1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. * * *

* * * * *

Dated: May 3, 1995.

Eugene Moos,

Under Secretary, Farm and Foreign Agricultural Services.

Dated: May 3, 1995.

Michael V. Dunn,

Acting Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–13243 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–07–V

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7 CFR Part 1956

Reporting Discharged Debts to the Internal Revenue Service

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing and Community Development Service (RHCDS), Rural Business and Cooperative Development Service (RBCDS), Rural Utilities Service (RUS), and Consolidated Farm Service Agency (CFSA), amends their debt settlement regulations. The intended effect is to remove debt settlement regulations concerning the Internal Revenue Service (IRS) requirement that certain agency discharges of indebtedness be reported to the IRS. This action is necessary to remove strictly internal procedural requirements from the debt settlement regulation.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Debra A. Deters, Accountant, Operations Division, Rural Housing and Community Development Service, USDA, Finance Office, Room 3529, 1520 Market Street, St. Louis, Missouri 63103, Telephone (314) 539–2492.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been determined to be not-significant for purposes of Executive Order 12866 because it has no adverse impact on borrowers or other members of the public and involves only internal Agency management. Since this rule relates only to internal agency procedures, notice of proposed rulemaking and opportunity for comment are not required. For the same reason, this rule is exempt from the provisions of Executive Order No. 12778, 56 FR 55195 (1991), and the Regulatory Flexibility Act, Pub. L. No. 96–354. This rule is being made effective immediately upon publication in the **Federal Register** since it concerns internal management and public loans, grants, benefits, or contracts. These subjects are exempted from 5 U.S.C. 553 requirements. The Agencies are amending their debt settlement regulations to remove internal procedures for reporting discharges of indebtedness to the Internal Revenue Service (IRS). These procedures will be covered by internal instructions consistent with IRS policy.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0575–0118 and 0575–0124 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This rule does not revise or impose any new information collection requirement from those approved by OMB.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHCDS, RBCDS, RUS, and CFSA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

1. This activity is not subject to Executive Order (EO) 12372 which requires intergovernmental consultation with State and local officials and is not listed in the Catalog of Federal Domestic Assistance, however, affected programs 10.411, 10.416, and 10.437 are subject to the provisions of EO 12372.

Program Affected

These changes affect the following USDA programs listed in the Catalog of Federal Domestic Assistance under numbers:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.411 Rural Housing Site

10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.421 Indian Tribes and Tribal Corporation Loans
10.435 Agricultural Loan Mediation Program
10.437 Interest Assistance Program

List of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agriculture, Rural areas. Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70

Subpart B—Debt Settlement—Farmer Programs and Housing

§ 1956.86 [Removed]

2. Section 1956.86 is removed and reserved.

Subpart C—Debt Settlement—Community and Business Programs

§ 1956.146 [Removed]

3. Section 1956.146 is removed and reserved.

Dated: April 20, 1995.

Dallas R. Smith,

Acting Under Secretary for Farm and Foreign Agricultural Services.

Dated: April 6, 1995.

Michael V. Dunn,

Acting, Under Secretary for Rural Economic and Community Development.

[FR Doc. 95–13242 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–07–U

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 95–033–1]

Brucellosis in Cattle; State and Area Classifications; Nebraska

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

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

DATES: Interim rule effective May 31, 1995. Consideration will be given only to comments received on or before July 31, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–033–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–033–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

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

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

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

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

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

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

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

Immediate Action

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

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the

Federal Register. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

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

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

There are an estimated 24,000 cattle herds in Nebraska that would be affected by this rule. Ninety-eight percent of these are owned by small entities. Test-eligible cattle offered for sale interstate from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. If such testing were distributed equally among all herds affected by this rule, Class Free status would save approximately $4.60 per herd.

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

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

Executive Order 12372

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

Executive Order 12778

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 78

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

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

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

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

§ 78.41 [Amended]

2. In § 78.41, paragraph (a) is amended by adding ''Nebraska,'' immediately after ''Montana,''.

3. In § 78.41, paragraph (b) is amended by removing ''Nebraska,''.

Done in Washington, DC, this 25th day of May 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–13365 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

RIN 3150–AF28

Performance Requirements for Radiography Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the regulations pertaining to performance requirements for radiography equipment. The amended provision permits a licensee to use an alternate value of torque for the performance testing criteria. The specified torque test for the drive cable that is currently in the regulations is not practical to meet, given the design of radiographic equipment. Further, the amendment allows for the use of engineering analysis to demonstrate that a modest change in an already approved design is acceptable without the need to perform prototype tests. The amendment is necessary to relieve licensees from compliance with an impractical and unnecessary test criterion.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Rich or J. Bruce Carrico, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7893 or (301) 415–7826.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 1990 (55 FR 843) the U.S. Nuclear Regulatory Commission published a revision to 10 CFR 34.20. This regulation required that significant safety improvements be made to radiography equipment. Some of these are stated explicitly in the regulation and some are required through an incorporation by reference of American National Standards Institute N432–1980 (ANSI–N432). All newly manufactured radiographic exposure devices and associated equipment acquired by NRC licensees after January 10, 1992, must meet the requirements specified in 10 CFR 34.20, including the provisions of ANSI–N432. All equipment in use after January 10, 1996, must meet these requirements. Vendors of source assemblies, associated equipment, and radiography exposure devices have registered their designs with the NRC or an Agreement State. This process allows both the user and regulatory agency to determine if the equipment meets the applicable safety requirements. Two vendors are located in Agreement States and three are under NRC jurisdiction.

It has come to the attention of the NRC staff that one of the test criteria specified in section 8.9.2(c) of ANSI–N432 is not practical and cannot be implemented. This test criterion is also not needed for demonstration of safety, given the current design and use of radiography equipment. The test in question is a prototype endurance test of the entire radiography system and, in particular, is intended to ensure the integrity of the source assembly for 20,000 operating cycles. The tests have been performed for the specified number of cycles and at the proper rotational speed, but not at the value of

torque specified in ANSI–N432. The specific torque translates to approximately 1345 newtons (300 pounds-force) tensile/compressive load on the teleflex cable. It is apparently not possible to actually test at the torque values specified in the ANSI standard.

The torque requirement specified in the ANSI test is not a reasonable standard. First, it exceeds by a considerable amount the torque that a human can exert on the radiography system while cranking the source in and out by hand. Second, it would require that the drive cable (Type 187 teleflex cable used in radiography cameras for the past decade) be operated beyond the working load recommended by the supplier of that component. The recommended working load for the standard cable for 10,000 cycles is less than 583 newtons (130 pounds-force). For 20,000 cycles, which the ANSI endurance test specifies, the working load would be lower.

The design of the drive cable system in most radiography cameras has been unchanged for more than a decade. The NRC staff is not aware of any cable failures as a result of fatigue. Cable failures of this type would be clearly visible to the radiographer and 10 CFR 34.30 requires reporting to NRC. Based on the good operating experience with the standard cable and the fact that an individual is highly unlikely to generate 1345 newtons of force continuously on the cable, the NRC staff believes that testing equipment to the high torque requirement of ANSI–N432 is not needed to ensure system safety.

The NRC staff requested the American National Standards Institute Committee N43, the organization responsible for development of the standard, to clarify the basis for the test criterion. The committee's response indicates that the requirement was adopted from an International Standards Organization standard, that it was not aware of the severity of the requirement, and that it was not aware of any manufacturer that has tested equipment to this requirement. Based on further discussion with the N43's working group subcommittee chairman, the NRC staff understands that the working group intends to revise the standard to incorporate a more realistic torque requirement for the endurance test. However, considering the approval and publication process, a revised standard would not be issued for at least 18 months. At that time the NRC staff will evaluate the revised ANSI standard and consider revising its regulations, if necessary and appropriate for maintaining public safety, when radiography equipment is used.

The Amendment

Section 34.20 is being amended, first, by inserting a new sentence in paragraph (a) that will permit an applicant or licensee to submit an engineering analysis to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. This addition codifies a long-standing staff practice in evaluating radiography equipment. For example, an engineering analysis can demonstrate that a modest change in design is acceptable without repeating a prototype test.

Second, because of the flaw in the ANSI standard criteria, the Commission is amending its regulation in 10 CFR 34.20 to eliminate the impractical torque test. In its place, a radiography exposure device and associated systems will be considered to be in compliance with the performance requirements if the prototype equipment was tested using a value of a torque representative of the torque that an individual using the radiography equipment can realistically exert, provided the exposure device and associated equipment are in compliance with all other criteria in the referenced ANSI standard. To accomplish this objective, a new paragraph (f) is being added to 10 CFR 34.20, to specify that compliance with the ANSI-N432–1980 torque value for the endurance test is not required, and that use of a realistic torque value will satisfy the performance requirement. Furthermore, all radiography equipment currently shown and sold by vendors meeting the current part 34 requirements, will meet the revised § 34.20. These vendors have previously provided test results or engineering analysis to either the Agreement State or NRC to demonstrate the products meet § 34.20. The revision imposes a practical performance requirement that is consistent with industry practice while meeting NRC's objective to provide radiographers with safe equipment. Therefore, the filing of additional information with the Commission to demonstrate compliance with the revised § 34.20 requirement is not necessary.

The Commission finds that public comment on this rule is unnecessary because the purpose of the rule is to remove from the regulations an impractical requirement and to stipulate in its stead a practical standard that will permit continued use of a specific component, the drive cable, of industrial radiography equipment long in use without violating the Commission's regulation. The rule change preserves the status quo for the particular component.

Compatibility of Agreement State Regulations

Section 34.20 is currently designated as a Division II Matter of Compatibility for Agreement State regulations. The revisions addressed in this rule correct a flaw in the regulations. The rule does not affect the current compatibility designations and therefore, 10 CFR 34.20 continues to be designated as a Division II Matter of Compatibility.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0007.

Regulatory Analysis

The NRC has prepared this final rule to cure a defect in its regulations that places an unnecessary and unwarranted burden on certain of its licensees that use sources and devices for radiography. There is no other procedure available to the NRC to efficiently and effectively rectify the matter. There is no cost to the licensed and regulated community in the promulgation of this rule. This discussion constitutes the regulatory analysis for this rule.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 34

Criminal penalties, Incorporation by reference, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended,

the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is adopting the following amendments to 10 CFR Part 34.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for Part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

2. Section 34.20 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

§ 34.20 Performance requirements for radiography equipment.

* * * * *

(a) Each radiographic exposure device and all associated equipment must meet the requirements specified in American National Standards Institute N432–1980, ''Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography,'' (published as NBS Handbook 136, issued January 1981). This publication has been approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a). This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Copies of the document are available for inspection at the Nuclear Regulatory Commission library, 11545 Rockville Pike, Rockville, Maryland, 20852–2738. A copy of the document is also on file at the Office of the **Federal Register**, 800 North Capitol Street NW., Suite 700, Washington, DC 20408.

Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the Commission may find this an acceptable alternative to actual testing of the component pursuant to the referenced standard.

* * * * *

(f) Notwithstanding paragraphs (a), (d), and (e) of this section, equipment used in industrial radiographic operations need not comply with section 8.9.2(c) of the Endurance Test in American National Standards Institute N432–1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

Dated at Rockville, MD, this 17th day of May, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–13205 Filed 5–30–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 135

[Docket No. R–95–1677; FR–2898–F–03]

RIN 2529–AA49

Economic Opportunities for Low- and Very Low-Income Persons; Notice of Extension of Effective Date for Interim Rule

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule; Extension of effective period of interim rule.

SUMMARY: This rule extends the effective period for HUD's interim rule that amended part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992, until HUD publishes the final rule for this program.

EFFECTIVE DATE: This rule, which extends the effective period of the interim rule, is effective June 30, 1995.

The effective period for 24 CFR part 135 is extended from June 30, 1995 until the final rule implementing the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992, is published and becomes effective.

FOR FURTHER INFORMATION CONTACT: John Waller, Office of Economic Opportunity, Room 5232, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2251 (voice/TDD). (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, because prior public procedure is unnecessary. This final rule is technical, in that it merely extends the effective period for existing regulations, and it effects no substantive change to those regulations. The public has had an opportunity to comment on the substance of the regulations, as the interim rule for this program was published subject to the normal 60-day public comment period, and the interim rule was preceded by a proposed rule which also provided a 60-day public comment period.

II. Background

On June 30, 1994 (59 FR 33866), HUD published an interim rule that amended 24 CFR part 135 to implement comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

The preamble to the interim rule described HUD's policy of setting an expiration date for an interim rule that is effective unless a final rule is published before that date. This ''sunset'' provision appears in § 135.2 of the interim rule, and provides that the interim rule will expire on June 30, 1995, which is 12 months after the publication date.

The final rule amending 24 CFR part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), by the Housing and Community Development Act of 1992, is in its last stages of review, and publication is anticipated in June 1995. However, in order to prevent a period in which the Department will be without effective regulations, HUD is extending the effective period of the interim rule

until the final rule is published and becomes effective.

III. Other Matters

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of Rules Docket Clerk, 451 Seventh Street, SW, room 10276, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule merely extends the effective period for the interim rule.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the rule may have the potential to promote family formation, maintenance, and general well-being. If the revised part 135 regulations, implemented by this rule, contribute to successful implementation of section 3, an increased number of low-income persons will be employed which may promote family unification and general well-being. Since the impact of this rule is anticipated to be beneficial, no further review under the Order is necessary.

Executive Order 12611, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, Federalism, has determined that the rule will not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. The rule provides, consistent with section 3, that the preference requirements of section 3 are to be carried out consistent with existing Federal, State, and local laws and regulations.

Semiannual Agenda of Regulations

The rule implementing this program was listed as sequence number 1511 in the HUD's Semiannual Agenda of Regulations published on May 8, 1995 (60 FR 23368, 23399) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 135

Administrative practice and procedure, Community development, Equal employment opportunity, Government contracts, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

In accordance with the reasons set forth in the preamble, 24 CFR part 135 is amended as follows:

PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

1. The authority citation for 24 CFR part 135 continues to read as follows:

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

2. Section 135.2 is revised to read as follows:

§ 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect.

Dated: May 23, 1995.

Elizabeth K. Julian,

Acting Deputy Assistant Secretary for Policy and Initiatives.

[FR Doc. 95–13221 Filed 5–30–95; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 26, 161, 162, and 165

[CGD 95–033]

RIN 2115–AF12

National Vessel Traffic Services Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Vessel Traffic Services (VTS) regulations to clarify certain sections and correct inaccurate geographic information. In addition, the final rule is deleting certain sections and adding existing vessel traffic management information which was inadvertently omitted in a separate final rule published in the **Federal Register** (59 FR 36316) on July 15, 1994. This rule is intended to promote safe vessel movement by reducing the potential for collisions, rammings, and groundings and their attendant loss of lives, property and environmental harm.

EFFECTIVE DATE: This rule is effective on May 31, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street, SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Ms. Irene Hoffman, Project Manager, Vessel Traffic Services Division (G–NVT), at (202) 267–6277.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Ms. Irene Hoffman, Project Manager, and CDR Thomas Cahill, Project Counsel, Office of Chief Counsel.

Regulatory History

On August 1, 1991, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''National Vessel Traffic Services Regulations'' in the **Federal Register** (58 FR 36910). On July 15, 1994, the Coast Guard published the final rule in the **Federal Register** (59 FR 36316).

Background and Purpose

Under the Ports and Waterways Safety Act of 1972, as amended by the Port and Tanker Safety Act (PTSA) and the Oil Pollution Act (OPA 90), the Secretary of Transportation may construct, operate, maintain, improve, or expand VTSs in any port or place under the jurisdiction of the United States, including the navigable waters of the United States, or in any area covered by an international agreement negotiated under 33 U.S.C. 1230. The Act requires certain vessels which operate in a VTS area to use and comply with the VTS.

In response to this mandate, the final rule published on July 15, 1994, amended the VTS regulations to make participation in all VTSs mandatory. This rule also simplified existing VTS regulations by amending 33 CFR part 161 to incorporate: (1) Standard national vessel traffic management rules applicable to all VTSs; (2) vessel movement reporting requirements for

certain vessels operating in the VTS areas; and (3) geographic descriptions and local regulations pertaining to specific VTS areas. Additionally, the rule redesignated other regulations, not unique to VTS operations, into more appropriate parts within Title 33.

Discussion of Changes

The National Vessel Traffic Services Regulations contain inaccurate latitudes, longitudes, geographic location descriptions, VTS area descriptions, and administrative omissions in tables 26.03(f) (Radiotelephone Required), 161.12(b) (Vessel Operating Requirements), 161.35(b) (Vessel Traffic Service Houston/Galveston), 161.35(c) (Vessel Traffic Service Houston/Galveston), 161.45(b) (Vessel Traffic Service St. Marys River), 161.60(d) (Vessel Traffic Service Prince William Sound), 165.811(e) (Atchafalaya River, Berwick Bay, LA—regulated navigation area) and § 161.50 (Vessel Traffic Service San Francisco). These inaccuracies and omissions are being addressed in this rule.

Minor editorial changes have been made to §§ 26.04 (Use of the designated frequency), 26.07 (Communications), 162.117(g) (St. Marys River, Sault Ste. Marie, Michigan), 165.811(f) (Atchafalaya River, Berwick Bay, LA—regulated navigation area), and tables 161.40(c) (Vessel Traffic Service Berwick Bay) and 162.117(g) (St. Marys River, Sault Ste. Marie, Michigan).

Sections 161.60 (c)(2) and (c)(3) (Vessel Traffic Service Prince William Sound), are being rewritten in order to clarify intent and §§ 161.60(c)(4) (Vessel Traffic Service Prince William Sound). Sections 165.1704(c)(4) (Prince William Sound, Alaska—regulated navigation area) is being deleted and sections 165.1704(c)(5), (c)(6), and (c)(7) are being redesignated.

On April 19, 1994 the Coast Guard published an interim final rule in the **Federal Register** (59 FR 18486) establishing a Regulated Navigation Area at the Oliver Lock and Dam at MM 338 of the Black Warrior River. That rule was codified at 33 CFR 165.809. Due to a change in conditions on the Black Warrior River that Regulated Navigation Area is no longer necessary and has been rescinded. In the final rule, ''National Vessel Traffic Services Regulations'', published July 15, 1994, 33 CFR 165.809 set forth a Purpose and Applicability section for vessel operating rules contained in § 165.810. Those vessel operating rules were previously contained in 33 CFR 161.402. For ease of use, this rule combines both §§ 165.809 and 165.810 in § 165.810.

Additionally, the final rule published on July 15, 1994 inadvertently omitted a vessel traffic management information section which was previously included in the NPRM published on August 1, 1991. Section 162.117(c) (St. Marys River, Sault Ste. Marie, Michigan) is being added.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation is unnecessary.

Regulatory Justification

This rule corrects geographic and editorial inaccuracies and adds material included in the NPRM but inadvertently omitted in the Final Rule. Therefore, the Coast Guard finds under 5 U.S.C. 553 (c) and (d) that good cause exists to publish this as a final rule, effective upon publication, without notice and opportunity to comment.

Small Entities

This rule only makes editorial changes and minor additions to existing vessel traffic management regulations. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. These VTS operating procedures are a matter for which regulations should be developed on the national level, to avoid unreasonably burdensome variances and confusion in applicability and operating requirements. These regulations which provide uniform VTS operating requirements preempt States from adopting similar requirements.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. While the Coast Guard recognizes that this rule will have a positive effect on the environment by minimizing the risk of environmental harm resulting from collisions, groundings, and rammings, the impact is not expected to be significant enough to warrant further documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 26

Communications equipment, Navigation (water), Marine safety, Radio, Telephone, Vessels.

33 CFR Part 161

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

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR parts 26, 161, 162, and 165, as follows:

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

1. The authority citation for part 26 continues to read as follows:

Authority: 33 U.S.C. 1201–1208; 49 CFR 1.46. Sections 26.04 and 26.09 also issued under sec. 4118, Pub. L. 101–380, 104 Stat. 523 (33 U.S.C. 1203 note).

2. In § 26.03(f), table 26.03(f) is revised to read as follows:

TABLE 26.03(f)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Vessel traffic services[1] (call sign)	Designated frequency[2] (channel designation)	Monitoring area
New York		
New York Traffic[3]	156.700 MHz (Ch. 14).	The waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point and north of the line drawn from Ambrose Entrance Lighted Gong Buoy #1 to Ambrose Channel Lighted Gong Buoy #9 thence to West Bank Light and thence to Great Kills Light. The waters of the Upper New York Bay, south of 40°42.40′N. (Brooklyn Bridge) and 40°43.70′N. (Holland Tunnel Ventilator Shaft); and in Newark Bay, north of 40°38.25′N. (Arthur Kill Railroad Bridge), and south of 40°41.95′N. (Lehigh Valley Draw Bridge); and the Kill Van Kull.
	156.550 MHz (Ch. 11).	The waters of Raritan Bay east of a line drawn from Great Kills Light to Point Comfort in New Jersey and south of a line drawn from Great Kills Light to West Bank Light, thence to Ambrose Channel Lighted Gong Buoy #9, and thence to Ambrose Channel Lighted Gong Buoy #1 and west of a line drawn from Ambrose Channel Lighted Gong Buoy #1 to the Sandy Hook Channel Entrance Buoys (Sandy Hook Lighted Gong Buoy #1 and Sandy Hook Lighted Bell Buoy #2).
	156.600 MHz (Ch. 12).	Each vessel at anchor within the above areas.
Houston[3]		
		The navigable waters north of 29°N., west of 94°20′W., south of 29°49′N., and east of 95°20′W.:
Houston Traffic	156.550 MHz (Ch. 11).	The navigable waters north of a line extending due west from the southern most end of Exxon Dock #1 (29°43.37′N., 95°01.27′W.).
	156.600 MHz (Ch. 12).	The navigable waters south of a line extending due west from the southern most end of Exxon Dock #1 (29°43.37′N., 95°01.27′W.).
Berwick Bay		
Berwick Traffic	156.550 MHz (Ch. 11).	The navigable waters south of 29°45′N., west of 91°10′W., north of 29°37′N., and east of 91°18′W.
St. Marys River		
Soo Control	156.600 MHz (Ch. 12).	The navigable waters of the St. Marys River between 45°57′N. (De Tour Reef Light) and 46°38.7′N. (Ile Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16′N. and 46°01.57′N. (La Pointe to Sims Point in Potagannissing Bay and Worsley Bay and Worsley Bay).
San Francisco[3]		
San Francisco Traffic	156.600 MHz (Ch. 12).	The waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8′N., 122°34.6′W.) excluding the San Francisco Offshore Precautionary Area.
	156.700 MHz (Ch. 14).	The waters of the San Francisco Offshore Precautionary Area eastward to San Francisco Bay including its tributaries extending to the ports of Stockton, Sacramento and Redwood City.
Puget Sound[4]		
Seattle Traffic[5]	156.700 MHz (Ch. 14).	The navigable waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Marrowstone Point and Lagoon Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
	156.250 MHz (Ch. 5A).	The navigable waters of the Strait of Juan de Fuca east of 124°40′W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122°52′W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay: Admiralty Inlet north of a line connecting Marrowstone Point and Lagoon Point and all waters east of Whidbey Island north of a line drawn due east form the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Tofino Traffic[6]	156.725 MHz (Ch. 74).	The waters west of 124°40′W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48°N., and east of 127°W.

TABLE 26.03(f)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Vessel traffic services[1] (call sign)	Designated frequency[2] (channel designation)	Monitoring area
Vancouver Traffic	156.550 MHz (Ch. 11).	The navigable waters of the Strait of Georgia west of 122°52′W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.
Prince William Sound[7]		
Valdez Traffic	156.650 MHz (Ch. 13).	The navigable waters south of 61°05′N., east of 147°20′W., north of 60°N., and west of 146°30′W.; and, all navigable waters in Port Valdez.
Louisville[7]		
Louisville Traffic	156.650 MHz (Ch. 13).	The navigable waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.

Notes:

[1] VTS regulations are denoted in 33 CFR Part 161. All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

[2] In the event of a communication failure either by the vessel traffic center or the vessel or radio congestion on a designated VTS frequency, communications may be established on an alternate VTS frequency. The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is monitored in each VTS area; and it may be used as an alternate frequency, however, only to the extent that doing so provides a level of safety beyond that provided by other means.

[3] Designated frequency monitoring is required within U.S. navigable waters. In areas which are outside the U.S. navigable waters, designated frequency monitoring is voluntary. However, prospective VTS Users are encouraged to monitor the designated frequency.

[4] A Cooperative Vessel Traffic Service was established by the United States and Canada with adjoining waters. The appropriate vessel traffic center administers the rules issued by both nations; however, it will enforce only its own set of rules within its jurisdiction.

[5] Seattle Traffic may direct a vessel to monitor the other primary VTS frequency 156.250 MHz or 156.700 MHz (Channel 5A or 14) depending on traffic density, weather conditions, or other safety factors, rather than strictly adhering to the designated frequency required for each monitoring area as defined above. This does not require a vessel to monitor both primary frequencies.

[6] A portion of Tofino Sector's monitoring area extends beyond the defined CVTS area. Designated frequency monitoring is voluntary in these portions outside of VTS jurisdiction, however, prospective VTS Users are encouraged to monitor the designated frequency.

[7] The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is used in these VTSs because the level of radiotelephone transmissions does not warrant a designated VTS frequency. The listening watch required by § 26.05 of this chapter is not limited to the monitoring area.

§ 26.04 [Amended]

3. In § 26.04, paragraph (e) is revised to read as follows:

* * * * *

(e) On those navigable waters of the United States within a VTS area, the designated VTS frequency is an additional designated frequency required to be monitored in accordance with § 26.05.

* * * * *

§ 26.07 [Amended]

4. In § 26.07, insert a comma after ''no person may serve as''

PART 161—VESSEL TRAFFIC MANAGEMENT

5. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 33 U.S.C. 1223; 49 CFR 1.46.

6. In § 161.12, table 161.12(b) is revised to read as follows:

TABLE 161.12(b)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Vessel traffic services (call sign)	Designated Frequency[1] (Channel designation)	Monitoring area
New York		
New York Traffic[2]	156.700 MHz (Ch. 14).	The waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point and north of a line drawn from Ambrose Entrance Lighted Gong Buoy #1 to Ambrose Channel Lighted Gong Buoy #9 thence to West Bank Light and thence to Great Kills Light. The waters of the Upper New York Bay, south of 40°42.40′N. (Brooklyn Bridge) and 40°43.70′N. (Holland Tunnel Ventilator Shaft); and in Newark Bay, north of 40°38.25′N. (Arthur Kill Railroad Bridge), and south of 40°41.95′N (Lehigh Valley Draw Bridge); and the Kill Van Kull.

TABLE 161.12(b)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Vessel traffic services (call sign)	Designated Frequency [1] (Channel designation)	Monitoring area
	156.550 MHz (Ch. 11).	The waters of Raritan Bay east of a line drawn from Great Kills Light to Point Comfort in New Jersey and south of a line drawn from Great Kills Light to West Bank Light. Thence to Ambrose Channel Lighted Gong Buoy #9, and thence to Ambrose Channel Lighted Gong Buoy #1 and west of a line drawn from Ambrose Channel Lighted Gong Buoy #1 to the Sandy Hook Channel Entrance Buoys (Sandy Hook Lighted Gong Buoy #1 and Sandy Hook Lighted Bell Buoy #2).
	156.600 MHz (Ch. 12).	Each vessel at anchor within the above areas.
Houston [2]		
Houston Traffic	156.550 MHz (Ch. 11). 156.600 MHz (Ch. 12).	The navigable waters north of 29°N., west of 94°20′W., south of 29°49′N., and east of 95°20′W.: The navigable waters north of a line extending due west from the southern most end of Exxon Dock #1 (29°43.37′N., 95°01.27′W.). The navigable waters south of a line extending due west from the southern most end of Exxon Dock #1 (29°43.37′N., 95°01.27′W.).
Berwick Bay		
Berwick Traffic	156.550 MHz (Ch. 11).	The navigable waters south of 29°45′N., west of 91°10′W., north of 29°37′N., and east of 91°18′W.
St. Marys River		
Soo Control	156.600 MHz (Ch. 12).	The navigable waters of the St. Marys River between 45°57′N. (De Tour Reef Light) and 46°38.7′N. (IIe Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16′N. and 46°01.57′N. (La Pointe to Sims Point In Potagannissing Bay and Worsley Bay).
San Francisco [2]		
San Francisco Traffic	156.600 MHz (Ch. 12). 156.700 MHz (Ch. 14).	The waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8′N., 122°34.6′W.) excluding the San Francisco Offshore Precautionary Area. The waters of the San Francisco Offshore Precautionary Area eastward to San Francisco Bay including its tributaries extending to the ports of Stockton, Sacramento and Redwood City.
Puget Sound [3]		
Seattle Traffic [4]	156.700 MHz (Ch. 14). 156.250 MHz (Ch. 5A).	The navigable waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Marrowstone Point and Lagoon Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline. The navigable waters of the Strait of Juan de Fuca east of 124°40′W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122°52′W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Marrowstone Point and Lagoon Point and all waters east of Whidbey Island north of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Tofino Traffic [5]	156.725 MHz (Ch. 74).	The waters west of 124°40′W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48°N., and east of 127°W.
Vancouver Traffic	156.550 MHz (Ch. 11).	The navigable waters of the Strait of Georgia west of 122°52′W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.
Prince William Sound [6]		
Valdez Traffic	156.650 MHz (Ch. 13).	The navigable waters south of 61°05′N., east of 147°20′W., north of 60°N., and west of 146°30′W.; and, all navigable waters in port Valdez.

TABLE 161.12(b)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Vessel traffic services (call sign)	Designated Frequency [1] (Channel designation)	Monitoring area
Louisville [6]		
Louisville Traffic	156.650 MHz (Ch. 13).	The navigable waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.

Notes:

[1] In the event of a communication failure either by the vessel traffic center or the vessel or radio congestion on a designated VTS frequency, communications may be established on an alternate VTS frequency. The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is monitored in each VTS area; and it may be used as an alternate frequency, however, only to the extent that doing so provides a level of safety beyond that provided by other means.

[2] Designated frequency monitoring is required within U.S. navigable waters. In areas which are outside the U.S. navigable waters, designated frequency monitoring is voluntary. However, prospective VTS Users are encouraged to monitor the designated frequency.

[3] A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate vessel traffic center administers the rules issued by both nations; however, it will enforce only its own set of rules within its jurisdiction.

[4] Seattle Traffic may direct a vessel to monitor the other primary VTS frequency 156.250 MHz or 156.700 MHz (Channel 5A or 14) depending on traffic density, weather conditions, or other safety factors, rather than strictly adhering to the designated frequency required for each monitoring area as defined above. This does not require a vessel to monitor both primary frequencies.

[5] A portion of Tofino Sector's monitoring area extends beyond the defined CVTS area. Designated frequency monitoring is voluntary in these portions outside of VTS jurisdiction, however, prospective VTS Users are encouraged to monitor the designated frequency.

[6] The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is used in these VTSs because the level of radiotelephone transmissions does not warrant a designated VTS frequency. The listening watch required by § 26.05 of this chapter is not limited to the monitoring area.

7. In § 161.35(b), table 161.35(b) is revised to read as follows:

TABLE 161.35(b)—VTS HOUSTON/GALVESTON PRECAUTIONARY AREAS

Precautionary area name	Radius (yds.)	Center point	
		Latitude	Longitude
Bolivar Roads	4000	29°20.9′N	94°47.0′W
Red Fish Bar	4000	29°29.8′N	94°51.9′W
Bayport Channel	4000	29°36.7′N	94°57.2′W
Morgans Point	2000	29°41.0′N	94°59.0′W
Upper San Jacinto Bay	1000	29°42.3′N	95°01.1′W
Baytown	1000	29°43.6′N	95°01.4′W
Lynchburg	1000	29°45.8′N	95°04.8′W
Carpenters Bayou	1000	29°45.3′N	95°05.6′W
Jacintoport	1000	29°44.8′N	95°06.0′W
Greens Bayou	1000	29°44.8′N	95°10.2′W
Hunting Bayou	1000	29°44.3′N	95°12.1′W
Sims Bayou	1000	29°43.1′N	95°14.4′W
Brady Island	1000	29°43.5′N	95°16.4′ W
Buffalo Bayou	1000	29°45.0′N	95°17.3′W

Note: Each Precautionary Area encompasses a circular area of the radius denoted.

8. In § 161.35(c), table 161.35(c) is revised to read as follows:

TABLE 161.35(c)—VTS HOUSTON/GALVESTON REPORTING POINTS

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
1	Galveston Bay Entrance Channel.	Galveston Bay Entrance CH Lighted Buoy (LB) ''GB''.	29°18.4′N; 94°37.6′W.	
2	Galveston Bay Entrance Channel.	Galveston Bay Entrance Channel LB 11 and 12.	29°20.6′N; 94°44.6′W.	
E	Bolivar Land Cut	Mile 349 Intracoastal Waterway (ICW).	29°22.5′N; 94°46.9′ W	Tows entering HSC also report at HSC LB 25 & 26.
W	Pelican Cut	Mile 351 ICW	29°21.4′N; 94°48.5′ W	Tow entering HSC also report at HSC LB 25 & 26.
GCG	Galveston Harbor	USCG Base. At the entrance to Galveston Harbor.	29°20.0′N; 94°46.5′W.	
T	Texas City Channel	Texas City Channel LB 12	29°22.4′N; 94°50.9′W.	

TABLE 161.35(c)—VTS HOUSTON/GALVESTON REPORTING POINTS—Continued

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
X	Houston Ship Channel ICW Intersection.	Houston Ship Channel (HSC) LB 25 and 26.	29°22.1′N; 94°48.1′W.	Tow entering HSC from ICW or Texas Cut Only.
3	Lower Galveston Bay	HSC LB 31 and 32	29°23.5′N; 94°48.8′W.	
4	Red Fish Bar	HSC Lt. 53A & 54A	29°30.3′N; 94°52.4′W.	
P	Bayport Ship Channel	Bayport Ship Channel Lt. 7 and 8.	29°36.8′N; 94°59.5′ W;	Report at the North Land Cut.
4A	Upper Galveston Bay	HSC Buoys 69 and 70	29°34.7′N; 94°55.8′ W	Tows only.
5	Morgan's Point	Barbour's Cut	29°41.0′N; 94°58.9′W.	Abeam Barbours Cut.
6	Exxon	Baytown Bend	29°43.5′N; 95°01.4′W.	
7	Lynchburg	Ferry crossing	29°45.8′N; 95°04.8′W.	
8	Shell Oil	Boggy Bayou	29°44.1′N; 95°08.0′W.	
9	Greens Bayou	Greens Bayou	29°44.8′N; 95°10.1′W.	
10	Hess Turning Basin	Hunting Bayou Turning Basin	29°44.3′N;95°12.1′W.	
11	Lyondell Turning Basin	Sims Bayou Turning Basin	29°43.2′N; 95°14.4′W.	
12	I–610 Bridge	I–610 Bridge	29°43.5′N; 95°16.0′W.	
13	Houston Turning Basin	Buffalo Bayou	29°45.0′N; 95°17.4′W.	

§ 161.40 [Amended]

9. In § 161.40(c), table 161.40(c) is amended by adding the heading ''Table 161.40(c)—VTS Berwick Bay Reporting Points''.

10. In § 161.45(b), table 161.45(b) is revised to read as follows:

TABLE 161.45(b)—VTS ST. MARYS RIVER REPORTING POINTS

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
1	Ile Parisienne	Ile Parisienne Light	46°37.3′N; 84°45.9′ W	Downbound Only.
2	Gros Cap Reef	Gros Cap Reefs Light	46°30.6′N; 84°37.1′ W	Upbound Only.
3	Round Island	Round Island Light 32	46°26.9′N; 84°31.7′W.	
4	Pointe Louise	Pointe Louise Light	46°27.8′N; 84°28.2′W.	
5*	West End of Locks	West Center Pierhead Light	46°30.2′N; 84°22.2′ W	Upbound Only.
6	East End of Locks	East Center Pierhead Light	46°30.1′N; 84°20.3′ W	Downbound Only.
7	Mission Point	Light 99	46°29.2′N; 84°18.1′W.	
8	Six Mile Point	Six Mile Point	46°26.1′N; 84°15.4′W.	
9	Ninemile Point	Light 80	46°23.5′N; 84°14.1′W.	
10	West Neebish Channel	Light 29	46°16.9′N; 84°12.5′ W	Downbound Only.
11	Munuscong Lake Junction	Lighted Junction Buoy	46°10.8′N; 84°05.6′W.	
12	De Tour Reef	De Tour Reef Light	46°56.9′N; 83°53.7′W.	

§ 161.50 [Amended]

11. In § 161.50, remove ''(a)'' at the beginning of the section; remove the words ''Petaluma River Entrance Lights '1' and '2' '' and add, in their place, the words ''Petaluma River Entrance Channel Daybeacon 19 and Petaluma River Entrance Channel Light 20''; and remove the words ''Redwood City'' and add, in their place, ''the Dumbarton Bridge.''

12. In § 161.60, paragraph (c)(4) is removed; and paragraphs (c)(2) and (c)(3) and the table in paragraph (d) are revised to read as follows:

§ 161.60 Vessel Traffic Service Prince William Sound

* * * * *

(c) * * *

(1) * * *

(2) For a vessel listed in paragraph (c)(3) of this section—

(i) Approval to enter this area will not be granted to a vessel when a tank vessel of more than 20,000 deadweight tons is navigating therein;

(ii) A northbound vessel shall remain south of 61°N. until the VTS has granted permission to proceed; and

(iii) A southbound vessel shall remain in Port Valdez east of 146°35′W. and north of 61°06′N. until the VTS has granted permission to proceed.

(3) Paragraph (c)(2) of this section applies to—

(i) A vessel of 1600 gross tons or more; and

(ii) A towing vessel of 8 meters or more in length, except for a vessel performing duties as an escort vessel as defined in 33 CFR Part 168.

(d) Reporting Points.

TABLE 161.60(d)—VTS PRINCE WILLIAM SOUND REPORTING POINTS

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
1A	Cape Hinchinbrook	Cape Hinchinbrook	60°16′18″N; 146°45′30″ W	Northbound Only.
1B	Schooner Rock	Schooner Rock	60°18′42″N; 146°51′36″ W	Southbound Only.

TABLE 161.60(d)—VTS PRINCE WILLIAM SOUND REPORTING POINTS—Continued

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
2A	Naked Island	Naked Island	60°40′00″N; 147°01′24″ W	Northbound Only.
2B	Naked Island	Naked Island	60°40′00″N; 147°05′00″ W	Southbound Only.
3A	Bligh Reef	Bligh Reef Light (Pilot Embark)	60°50′36″N; 146°57′30″ W	Northbound Only.
3B	Bligh Reef	Bligh Reef Light (Pilot Disembark)	60°51′00″N; 147°01′24″ W	Southbound Only.
4A	Rocky Point	Rocky Point	60°57′48″N; 146°47′30″ W	Northbound Only.
4B	Rocky Point	Rocky Point	60°57′48″N; 146°50′00″ W	Southbound Only.
5	Entrance Island	Entrance Island Light	61°05′24″N; 146°37′30″W..	

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

13. The authority citation for part 162 continues to read as follows:

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

§ 162.117 [Amended]

14. In 162.117, paragraph (c) is revised to read as follows:

* * * * *

(c) Anchoring Rules

(1) A vessel must not anchor:

(i) within the waters between Brush Point and the waterworks intake crib off Big Point southward of the Point Aux Pins range; or

(i) within 0.2 nautical miles of the intake crib off Big Point.

(2) In an emergency, vessels may anchor in a dredged channel. Vessels shall anchor as near to the edge of the channel as possible and shall get underway as soon as the emergency ceases, unless otherwise directed. Vessel Traffic Services St. Marys River must be advised of any emergency anchoring as soon as is practicable.

(3) Vessels collected in any part of the VTS Area by reason of temporary closure of a channel or an impediment to navigation shall get underway and depart in the order in which they arrived, unless otherwise directed by Vessel Traffic Service St. Marys River. Vessel Traffic Service St. Marys River may advance any vessel in the order of departure to expedite the movement of mails, passengers, cargo of a perishable nature, to facilitate passage of vessels through any channel by reason of special circumstance, or to facilitate passage through the St. Marys Falls Canal.

* * * * *

15. In § 162.117(g), Table 162.117(g), add the heading ''Table 162.117(g)—St. Marys River Speed Rules''; and in paragraph (g)(2), add the words ''Commanding Officer'' before ''Vessel Traffic Service St. Marys River.''

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

16. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

§ 165.809 [Removed]

17. Section 165.809 is removed.

§ 165.810 [Amended]

18. In § 165.810 redesignate paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d) respectively; and add paragraph (a) to read as follows:

(a) *Purpose and Applicability.* This section prescribes rules for all vessels operating in the Mississippi River below Baton Rouge, LA, including South and Southwest Passes, to assist in the prevention of collisions and groundings and to protect the navigable waters of the Mississippi River from environmental harm resulting from those incidents.

* * * * *

§ 165.811 [Amended]

19. In § 165.811, in paragraph (e), amend the table heading by adding ''Table 165.812(e)—'' before the words ''Minimum Available Horsepower Requirement''; and in paragraph (f)(4)(ii), remove the word ''horizontally'' and add, in its place, the word ''vertically.''

§ 165.1704 [Amended]

20. In § 165.1704 remove paragraph (c)(4) and redesignate paragraphs (c)(5), (c)(6) and (c)(7) as paragraphs (c)(4), (c)(5) and (c)(6), respectively.

Dated: May, 16, 1995.

G.A. Penington,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterways Services.

[FR Doc. 95–13268 Filed 5–30–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 136, PR3–2–6731, FRL–5209–5]

Approval and Promulgation of PM_{10} Implementation Plan for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revision submitted by the Commonwealth of Puerto Rico for the purpose of attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP addresses sources impacting the Municipality of Guaynabo, Puerto Rico which has been designated nonattainment.

EFFECTIVE DATE: This action will be effective June 30, 1995.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Library, 290 Broadway, 16th Floor, New York, New York, 10007–1866.

Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909.

Commonwealth of Puerto Rico, Environmental Quality Board, Banco National Plaza, 8th Floor, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico, 00917.

Environmental Protection Agency, Air and Radiation Docket and Information

Center (MC 6102), 401 M. Street, S.W. Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007–18666 (212) 637–4249.

or

Carl Soderberg, Director, Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909, (809) 729–6951.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act, as amended in 1990 (the Act), requires all areas that have measured a violation of the NAAQS for PM_{10} before January 1, 1989 be designated nonattainment. On November 15, 1990 by operation of law the Municipality of Guaynabo, Puerto Rico was designated nonattainment for PM_{10} and classified as moderate based on violations measured in 1987 in the Municipality. [see 56 FR 11101 (March 15, 1991)]. The Act requires state or territorial governments to revise their SIP for all areas that are designated as nonattainment to ensure that the NAAQS will be attained. Under the Act, the Commonwealth of Puerto Rico is regarded as a state. The reader should refer to the ''General Preamble'' [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)] for a more detailed discussion of the designation of PM_{10} nonattainment areas.

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals. (See 57 FR 13565–13566.) In this action, EPA is approving the Puerto Rico PM_{10} implementation plan revision submitted to EPA on November 14, 1993. This submittal was intended to satisfy those moderate PM_{10} nonattainment area SIP requirements due November 15, 1991 and the moderate PM_{10} nonattainment area New Source Review requirements due June 30, 1992. EPA proposed to approve the submittal on August 11, 1994, 57 FR 41265. The reader is referred to the proposal for a detailed explanation of Puerto Rico's PM_{10} SIP and EPA's evaluation. In response to the **Federal Register** notice and a Public Meeting held by EPA Region II on September 11, 1994 in the Municipality of Cataño, comments were received from ten interested parties. EPA's response to these comments are discussed in IV. Public Comment.

III. Analysis of Puerto Rico's SIP Submission

A. Administrative Requirements

The Commonwealth of Puerto Rico held a public hearing on October 15, 1993 to accept public comments on the implementation plan for the Municipality of Guaynabo PM_{10} nonattainment area. Following the public hearing the plan was adopted by Puerto Rico and was submitted to EPA as a revision to the SIP on November 14, 1994. The submittal was supplemented with administrative documents on March 18, 1994 and March 30, 1994. The SIP submittal included revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution which include the following: Part I; Rule 102, ''Definitions,'' Part II; Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' Rule 203, ''Permit to Construct a Source,'' and Part IV; Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,'' and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area,'' which became effective on April 2, 1994. The entire SIP revision was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR 51, and found to be administratively complete.

B. Emissions Inventory

Puerto Rico submitted an emissions inventory for base year 1990. EPA is approving the emissions inventory because it is accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.

C. New Source Review (NSR) PM_{10} Permit Program

The statutory permit requirements for moderate PM_{10} nonattainment areas are contained in section 173 and section 189 of the Act. For all moderate PM_{10} nonattainment areas, states must adopt the appropriate major source threshold, offset ratio, significance level for modifications, and provisions for PM_{10} precursors. Puerto Rico's PM_{10} implementation plan submittal addressed all NSR Act requirements, therefore, EPA is approving the PM_{10} NSR permit program SIP revision.

D. Reasonably Available Control Measures (RACM) including Reasonably Available Control Technology (RACT)

Moderate PM_{10} nonattainment areas were required to submit provisions to assure that RACM (including RACT) would have been implemented no later than December 10, 1993 or four years after designation in the case of an area classified as moderate nonattainment after November 15, 1990. [see sections 172(c)(1) and 189(a)(1)(C)]. The Municipality of Guaynabo was designated and classified as moderate nonattainment for PM_{10} on November 15, 1990 by operation of law, therefore, the Puerto Rico PM_{10} implementation plan needed to assure that RACT/RACM would have been implemented no later than December 10, 1993. The SIP contains enforceable commitments by the Puerto Rico Environmental Quality Board (EQB) to achieve various RACM requirements through regulations as well as through Memoranda of Understanding (MOU). These were effective upon adoption. The EQB has signed MOU's with various entities which include details of how the various RACM requirements would be implemented.

EPA has reviewed Puerto Rico's SIP documentation and concluded that its choice of control measures has provided for attainment of the PM_{10} NAAQS by December 31, 1994. By this notice, EPA is determining that the control strategies are consistent with the RACM and RACT requirements contained in the Act.

E. Contingency Measures

As provided in section 172(c)(9) of the Act, all PM_{10} nonattainment area SIP's must include contingency measures (see generally 57 FR 13543–44). These measures were required to be submitted by November 15, 1993 for the moderate PM_{10} nonattainment areas. [see 57 FR 13543 (April 16, 1992)]. Contingency measures should consist of other available measures, not already part of the area's control strategy, that take effect without further action by the Commonwealth or EPA upon a determination by EPA that the area has failed to make Reasonable Further Progress (RFP) or attain the PM_{10} NAAQS by the applicable statutory deadline. The Municipality of Guaynabo PM_{10} nonattainment area SIP contains contingency measures which are included in Rule 423(D).

After review of the contingency measures contained in the SIP, EPA has determined they meet the requirements of the Act.

F. Demonstration of Attainment

Moderate PM_{10} nonattainment areas were required to submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 [see sections 188(c)(1) and 189(a)(1)(B) of the Act).

EQB performed an attainment demonstration using the Industrial Source Complex (ISC2) dispersion model and five years of National Weather Service meteorological data. EPA recommends that implementation plans show maintenance of the PM_{10} NAAQS for at least three years beyond the attainment date. Puerto Rico's demonstration, included in their PM_{10} implementation plan, indicates the NAAQS for PM_{10} were attained by December 31, 1994 in the Municipality of Guaynabo. In addition, Puerto Rico went beyond EPA's recommendation of demonstrating maintenance of the PM_{10} NAAQS for three years and demonstrated they would be maintained at least until 1999. EPA is approving the attainment demonstration.

G. Quantitative Milestones and RFP

The moderate PM_{10} nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994 (see section 189(c)(1) of the Act). RFP is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

The assurance that milestones and RFP will be achieved is based upon the Commonwealth adopting and implementing the particular control measures contained in the PM_{10} SIP, RACM (including RACT).

H. Enforceability

The SIP must include enforceable emission limitations and other control measures, means or techniques necessary or appropriate to meet the requirements of the Act. [see section 110(a)(2)(A) of the Act]. Nonattainment plan provisions must also include enforceable emission limitations and other control measures, means or techniques necessary or appropriate to provide for attainment of the NAAQS by the applicable attainment date. [see section 172(b)(6)]. The SIP must also contain a program which provides for enforcement of the control measures and other elements in the SIP and the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the NAAQS are achieved, including a permit program required under Part C or D of Title I of the Act. [see, section 110(a)(2)(C)]. All measures and other elements in the SIP must be enforceable by the Commonwealth and EPA [see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556]. Moderate PM_{10} nonattainment area plan provisions must also contain a program which provides for enforcement of the control measures and other elements in the SIP [see section 110(a)(2)(C)].

The SIP requires that all affected stationary sources must be in full compliance with the applicable RACT requirements by December 10, 1993. However, if a physical alteration of the stationary source is necessary to achieve compliance, the SIP requires that construction of the alteration must have been commenced by February 15, 1994, and must have been completed by November 30, 1994. EQB has prepared a compliance schedule for those sources that still need to make alterations. Compliance with these RACT requirements must be demonstrated using the applicable EPA Reference Test Methods. Puerto Rico has an enforcement program that will ensure that these RACT requirements are adequately enforced. There are civil penalties for noncompliance with the Regulation containing these RACT requirements.

In addition to the RACT requirements for stationary sources, the SIP contains enforceable commitments by EQB to achieve various RACM requirements. To implement these measures, EQB has signed an MOU with the Puerto Rico Department of Transportation, the Puerto Rico Electric Power Authority, the Municipality of Guaynabo, and the Port Authority that contain details on how each of these entities will meet these RACM commitments. The commitments to implement the RACM requirements are in the SIP itself, and thus are enforceable as requirements of the SIP. In addition, the MOU's, having gone through public review and comment, will be incorporated into the SIP by reference, and are effective as of the date each was signed. The attainment demonstration, which shows attainment of the PM_{10} NAAQS by December 31, 1994, uses emissions reductions from the identified RACM measures, and thus EPA expects them to be implemented pursuant to the MOU's. Once incorporated into the approved SIP, the requirements of the MOU may not be changed except by a revision to the SIP that has been submitted to and approved by EPA.

Puerto Rico's revisions to the regulations include a new definition for ''PM_{10}'' in Rule 102. Although test methods are not contained in Puerto Rico's definition of ''PM_{10}'' as they are in 40 CFR 51.100 (qq), EPA is approving Puerto Rico's definition of ''PM_{10},'' since the relevant test methods are found in other provisions of the regulations.

I. PM_{10} Precursors

The Act states that ''control requirements applicable to major stationary sources of PM_{10} must also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area.'' Based on filter analyses of the Guaynabo nonattainment area, the relatively minor contribution of precursors to overall nonattainment, and the effectiveness of the Commonwealth's RACT/RACM strategies, EPA agrees with EQB's determination that no controls of PM_{10} precursors beyond what are already controlled in the Puerto Rico SIP are needed for attainment. Nonetheless, Puerto Rico has chosen to include within the NSR provisions a requirement for control of PM_{10} precursors unless EPA and EQB determine otherwise.

IV. Public Comment

EPA proposed to approve the Puerto Rico PM_{10} implementation plan on August 11, 1994, 57 FR 41265. Comments were received from ten interested parties. Comments were also received during the Public Meeting held by EPA Region II on September 11, 1994 in the Municipality of Cataño. EPA evaluated all the comments with respect to EPA's proposed approval. Due to the large number of comments, EPA prepared a separate ''Responsiveness Document'' which summarizes each comment and includes EPA's evaluation and detailed response. This document is available from EPA upon request. In this **Federal Register** notice EPA has summarized major comments and responses.

The following summaries of comments and responses is divided into several major areas; the designation of the nonattainment area, the SIP attainment demonstration, and RACT determinations.

Designation of Nonattainment

Comment: Puerto Rico's plan is based on air quality data which is incomplete and insufficient for determining that the Municipality of Guaynabo was not in attainment of the air quality standards. Air quality now meets the NAAQS.

Response: The Commonwealth presented no information which invalidates the air quality data previously collected which indicated nonattainment. Section 107(d)(4)(B) of the Act mandated the designation of areas as nonattainment for PM_{10} by operation of law:

''(B) PM_{10} Designations.—By operation of law, * * * (ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM_{10} before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM_{10};''

This section of the Act confines the EPA to review air quality data prior to January 1, 1989, not after January 1, 1989, in designating an area for PM_{10}. The designation of the Municipality of Guaynabo as nonattainment for PM_{10} was based on the PM_{10} concentration of 285 $\mu g/m^3$, recorded at the Electrical Substation #24 on August 1, 1987. There was no evidence presented by the Commonwealth that showed this reading to be invalid. Further, air quality data available to the Administrator indicated that there were violations of the annual standard in 1987 and 1988. EPA does not find any evidence to conclude that the nonattainment designation was made in error.

If indeed the area is attaining the PM_{10} NAAQS in the Municipality of Guaynabo as a result of permanent reductions in emission, the Commonwealth can request a redesignation to attainment. Section 107 (d)(3) of the Act specifies the procedures and requirements for changing an area's designation. The redesignation of an area from nonattainment to attainment is an entirely separate procedure from today's SIP approval action. However, one requirement of a redesignation is that the Commonwealth has an approved PM_{10} attainment SIP. A redesignation request, which may be submitted at any time, would be processed expeditiously by EPA as a separate rulemaking.

Comment: The location of EQB's PM_{10} air quality monitors are not representative of the air in the remainder of the nonattainment area and in the surrounding areas of Guaynabo. Monitors should be located in the center and southern end of the Municipality of Guaynabo and in the Municipality of Cataño.

Response: EPA believes the current PM_{10} monitoring network in Puerto Rico is representative of the highest PM_{10} concentrations in the entire nonattainment area. This design is consistent with the monitoring objectives and methodologies described in Part 58 of the Code of Federal Regulations, Appendix D. They are sited immediately downwind of major point and area sources in locations where a long record of total suspended particulate monitors had measured the highest levels in Puerto Rico. Thus they meet the monitor-siting objective of measuring air quality in the area where the highest concentrations of a pollutant can be expected to occur.

Locations in southern Cataño and Guaynabo do not have the same potential to measure high concentrations due to the lack of major sources of particulate matter, as demonstrated by the emission inventory of the Municipality of Guaynabo. Consequently, their absence should not make the Commonwealth's plan any less approvable.

Attainment Demonstration

Comments: The dispersion model used in the attainment demonstration is not conservative. Wrong meteorological data being used. The Puerto Rico Electrical Power Authority (PREPA) Palo Seco plant should have been included in the Plan.

Response: The dispersion model is conservative because it predicts higher concentrations than observed for almost the entire set of observed data. The graph in the Commonwealth's PM_{10} plan comparing concentrations predicted by the model with the observed data may not demonstrate this fact because the plotted predicted concentrations lack the background contribution from outside the modeled area of (approximately 31 ug/m^3). When the concentrations predicted by the model are correctly included, however, the predicted concentrations are higher than the observed concentrations. Thus, EPA concludes that the model generally over predicts PM_{10} concentrations and is conservative. This is further supported by recent air quality measurements which show annual concentrations significantly well below concentrations predicted by the model, even after control measures have been enacted.

The San Juan Airport site is representative of the industrialized area of Guaynabo since it is also located on the north coast of Puerto Rico and subject to the same land-sea effects on the wind. The terrain in the Puerto Nuevo area where the largest emitting sources are located is mainly flat like the area near the Airport. Comparison between the San Juan Airport data and data collected at a meteorological tower in the Municipality of Guaynabo confirm that they are subject to the same meteorological patterns.

In reference to the PREPA Palo Seco issue, the attainment demonstration did consider the impact of the Palo Seco Power Plant's PM_{10} emissions on the Cataño—Guaynabo area. The atmospheric dispersion model used in the attainment demonstration showed that the greatest impact of the power plant's emissions remained over water. The plants contribution to the Guaynabo nonattainment area (only about three and one half percent of the time) is less than the deminimis impact levels contained in EPA regulations. Since the power plant is located outside of the Guaynabo nonattainment area, EPA's guidance to the states is that RACT strategies need only be applied to those sources which have a significant impact on the nonattainment area. Thus RACT at the Palo Seco Power Plant would have no real benefit to attainment of PM_{10} standards in the Guaynabo. However, all power plants in Puerto Rico are subject to the same 20 percent opacity limit that is required of the power plant in Puerto Nuevo.

RACT Determinations for Electrical Utilities

Comment: A mass emissions limit should be adopted by Puerto Rico. The 1.5 percent sulfur-in-fuel limit is not cost effective nor stringent enough to show attainment. EQB has no independent way of verifying sulfur-in-fuel limits.

Response: There is no requirement that a mass emission limit be used exclusively in state clean air plans. EPA can approve a SIP revision as long as it contains emission limits which are enforceable and which provide for attainment of the standards. The Act states ''each implementation plan submitted by a State * * * shall include enforceable emission limitations and other control measures, means, or techniques * * * as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act, section 110(a)(2)(A).''

The Puerto Rico SIP relies on a sulfur-in-fuel limit and a 20% opacity limitation, both of which are enforceable. Further, the Agency has collected emission data from a variety of fuel oil burning power plants from which the particulates can be

calculated. These factors are contained in the *Compilation of Air Pollutant Emission Factors* (AP–42), Supplement F, emissions factor equation. These emissions were factored into the Puerto Rico plan and attainment with health related ambient air quality standards was demonstrated.

EQB included in their SIP submittal an Economic Feasibility Analysis of Alternative Emission Control Strategies in the Guaynabo Municipality. This document presented an analysis of the cost of reducing emissions in Guaynabo and the cost effectiveness of alternative control strategies.

EPA reviewed the document and determined the costs of low sulfur residual oil were accurate to determine the cost effectiveness of controls applicable to PREPA. The analysis showed that 1.0, 1.5, and 2.0 percent sulfur oils cost about the same for each ton of sulfur reduced, however, according to the Economic Feasibility Analysis provided with the SIP, it will cost more than $6.6 million per year to reduce the sulfur content from 1.5 to 1.0 percent at the PREPA San Juan plant.

EQB has informed EPA that it has the necessary equipment to analyze fuel samples. Compliance of the sulfur-in-fuel limit will be verified by a variety of methods. In accordance with the January 31, 1994 Memorandum Of Understanding (MOU), PREPA and its fuel supplier will send sampling data to EQB. When the fuel supplier delivers the fuel, it will send its analysis of the fuel content to EQB. EQB can compare the supplier's analysis against reports from the facility.

In summary, the two procedures set forth in the PM_{10} SIP, the sulfur-in-fuel limit that correlates to a 0.08 #/MMBtu mass emission rate, and the 20% opacity restriction are easily measured, readily enforceable, and when combined with the other control measures adopted by the Commonwealth, can demonstrate attainment of the PM_{10} NAAQS. The Agency therefore has determined that the limits provided can and should be approved.

RACT Determinations for Grain Handling Facilities

Comment: Puerto Rico's ban on the use of clamshell unloading of ships is not supportable as RACT. The 99.9% filtration efficiency required of grain mills is not technically achievable.

Response: The *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' Congress specified that nonattainment area plans were to ''require * * * reasonable further progress * * * including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT.''

Through modeling, EQB's contractor demonstrated that emissions from the grain mills contributed in a large way to the violations of the PM_{10} air quality standard predicted by the model. Taking this into consideration, EQB determined that stringent RACT measures were needed at these facilities to show attainment.

EPA guidance identifies that Industrial process fugitive particulate emissions are produced during all phases of grain handling and processing including: unloading, receiving, handling, drying, cleaning, milling, and land-out. EPA's *Control Techniques for Particulate Emissions from Stationary Sources* recommends that for grain handling and storage ''the most common control strategy is to enclose and hood the processing equipment or area with ventilation to cyclones and filters.'' Thus, the emission reductions that can be obtained from this strategy depend upon both process modifications to optimize the capture efficiency of the ventilation system and the installation of control devices.

EQB determined that for a very dusty process such as Clamshell loading and unloading, RACT for this process would be the prohibition of Clamshell loading and unloading and the utilization of telescopic loading spouts in a fully enclosed area with a ventilation system. This control strategy is considered both technologically and economically feasible. EPA has verified this in discussions with grain facilities in the United States who are currently using the telescopic loading spouts.

EPA has not been able to conclude that a ban on loading/unloading using clamshells is not an acceptable RACT determination. Telescoping loading spouts are used in the industry to load and unload grain or grain products. However, EPA would object to a RACT determination that is less stringent than could be technologically and economically justified. Should the Commonwealth decide in the future to propose an alternative to a ban on the use of clamshells, the SIP could be revised accordingly.

The SIP requires the installation of control equipment with a 99.5% efficiency. Upon review EPA has concluded that this is achievable even in warm climates. In other parts of the country, (PM_{10} attainment and nonattainment areas), 99.9% is routinely required. One commenter argued that conditions at grain handling facilities in Puerto Rico would prevent 99.5% efficiency from being achieved. EPA has reviewed permits issued to grain mills in warm climates and determined that the 99.5% limit proposed in the SIP is achievable on a continuous basis providing there is proper operation and maintenance of the control systems.

Environmental Justice Concerns

Comment: Several commenters raised environmental justice concerns in their comments.

Response: EPA recognizes that air pollution sources in the SIP area raise environmental justice issues, and EPA has taken steps to address these concerns in the SIP process. In particular, EPA has had meetings and contacts with affected communities and organizations, and intends to continue these contacts as air programs are implemented and enforced. In addition, EPA and other agencies such as the Centers for Disease Control have been assessing environmental health factors in these communities. EPA will continue to review progress in implementing the SIP and other environmental programs with respect to Executive Order 12898 and the EPA Environmental Justice Strategy.

V. Summary

In this action, EPA is approving the SIP revision submitted to EPA on November 14, 1993 and supplemented on March 18, 1994 and March 30, 1994 by Puerto Rico for the Municipality of Guaynabo PM_{10} nonattainment area. Specifically, EPA is approving the emissions inventory, the control strategy including RACM and RACT, the demonstration that the Municipality of Guaynabo PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994 and maintain the PM_{10} NAAQS through 1999, the NSR permit provisions and the contingency measures. EPA determined that PM_{10} precursor controls are not needed for attainment. EPA is approving the revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution which include the following: Part I; Rule 102, ''Definitions,'' Part II; Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' Rule 203, ''Permit to Construct a Source,'' and Part IV; Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,''

and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area.'' EPA is approving this PM_{10} SIP submittal in relation to its satisfying all Act requirements.

Previously, the Governor of Puerto Rico was notified on December 16, 1991 by the EPA Regional Administrator that Puerto Rico had not submitted the PM_{10} SIP requirements due on November 15, 1991. This action formally started both an 18-month Sanction clock and a 24-month Federal Implementation Plan (FIP) clock. In a January 15, 1993 letter, the Governor was notified that another 18-month Sanction clock and 24-month FIP clock, for the failure to submit a permit program for the NSR requirements by June 30, 1992, had begun. Since the November 14, 1993 submittal was found to be complete, the findings made on December 16, 1991 and January 15, 1993 of non-submittal have been corrected and no sanctions will be imposed. With the approval of this SIP revision, all Clean Air Act requirements have been met and it is no longer necessary for EPA to adopt a FIP to address the PM_{10} deficiencies.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of Section 110 of the Clean Air Act, and 40 CFR Part 51.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110(a)(2), 172(c), 173 and 189(a) of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action would impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of $100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(l) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 14, 1995.

William J. Muszynski,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart BBB—Puerto Rico

2. Section 52.2720 is amended by adding new paragraph (c)(35) to read as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) * * *

(35) A revision submitted on November 14, 1993 by the Chairman of the Puerto Rico Environmental Quality Board (EQB) for the Municipality of Guaynabo. The submittal was made to satisfy those moderate PM_{10} nonattainment area SIP requirements due for the Municipality of Guaynabo as outlined in the Clean Air Act of 1990.

(i) Incorporation by reference:

(A) Regulations:

(1) Amendments to Part I, Rule 102, ''Definitions,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(2) Amendments to Part II, Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' and Rule 203, ''Permit to Construct a Source,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(3) Amendments to Part IV, Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,'' and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(B) Memoranda of Understanding (MOU):

(1) MOU signed by the Chairman of EQB and the Executive Director of Puerto Rico Electrical Power Authority, San Juan plant, limiting the sulfur-in-fuel level, annual operation capacity, and requiring the submittal of monthly sampling reports of its fuel's sulfur content, effective January 31, 1994.

(2) MOU signed by the Chairman of EQB and the Secretary of Puerto Rico Department of Transportation and Public Works and the Executive Director of the Highway Authority to maintain and control the reconstruction of existing roads and the construction of new roads, effective July 2, 1993.

(3) MOU signed by the Chairman of EQB and the Mayor of the Municipality of Guaynabo to pave and maintain the streets, roads and parking areas located in the Municipality of Guaynabo, effective December 13, 1993.

(4) MOU signed by the Chairman of EQB and the Executive Director of the Puerto Rico Port Authority to pave and maintain the streets, roads, and parking areas that lead into the port area in Puerto Nuevo, Guaynabo and San Juan, effective October 14, 1993.

[FR Doc. 95–13181 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[SIPTRAX NO. DC23–1–6790a; FRL–5213–1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Withdrawal of the Final Rule Pertaining to the Promulgation of the GSA Central and West Heating Plants Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of Notice of Direct Final Rulemaking.

SUMMARY: On May 2, 1995, EPA published a final rule approving a revision to the State implementation plan for the District of Columbia. The revision limits air pollution from two steam-generating facilities operated by the General Services Administration (GSA) in the District of Columbia. This action was published without prior proposal because EPA anticipated no adverse comment. Because EPA received adverse comments on this action, EPA is withdrawing the May 2, 1995 final rulemaking action pertaining to the State implementation plan for the District of Columbia.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 597–9781.

SUPPLEMENTARY INFORMATION: On May 2, 1995, EPA published a final rule to approve a revision to the District of Columbia State implementation plan (SIP) (60 FR 21453). The revision consists of a September 8, 1994 operating permit issued by the District of Columbia to GSA for its Central and West Heating Plants. The permit establishes general operating procedures and emission limitations at GSA's Central Heating Plant (CHP) and West Heating Plant (WHP). EPA approved this direct final rulemaking without prior proposal because the Agency viewed it as non-controversial and anticipated no adverse comments. The final rule was published in the **Federal Register** with a provision for a 30 day comment period. At the same time, EPA published a proposed rule which announced that this final rule would convert to a proposed rule in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the **Federal Register** (60 FR 21489). By publishing a notice announcing withdrawal of the final rulemaking action, this action would be withdrawn. EPA received adverse comment within the prescribed comment period. Therefore, EPA is withdrawing the May 2, 1995 final rulemaking action pertaining to the District of Columbia SIP. All public comments received will be addressed in a subsequent rulemaking action based on the proposed rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: May 18, 1995.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 95–13283 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[MN–36–1–6752a; FRL–5202–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On September 7, 1994, the Minnesota Pollution Control Agency (MPCA) submitted a request for redesignation to attainment for particulate matter (PM) in the Rochester portion of Olmsted County and sulfur dioxide (SO_2) in the Air Quality Control Region (AQCR) 131 Twin Cities and Pine Bend areas (excluding the St. Paul Park area). A revision to the administrative order for Rochester Public Utilities (RPU) was also submitted in support of the Olmsted County redesignation request. The USEPA is approving, through the use of direct final rulemaking procedures, the redesignation requests and the administrative order revision for RPU.

EFFECTIVE DATES: This action will be effective July 31, 1995 unless notice is received by June 30, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the redesignation request and USEPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR), Docket and Information Center (Air Docket (6102) Room M1500, United States Environmental Protection Agency, 401 M Street, S.W. Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

A request for redesignation to attainment for PM for the Rochester area of Olmsted County and for SO_2 for the Twin Cities area (excluding the St. Paul Park area) was submitted by the MPCA on September 7, 1994. The submittal was received by USEPA on September 12, 1994. In addition to the redesignation requests, a revision to the administrative order for RPU was submitted to support the request for the Rochester area.

The Rochester area was designated as a moderate nonattainment area for PM upon enactment of the Clean Air Act Amendments (CAAA) of 1990 (56 FR 56694, November 6, 1991). As required in the CAAA, revisions to the State Implementation Plan (SIP) were submitted on November 26, 1991, August 31, 1992, and November 13, 1992. These revisions were approved by USEPA on February 15, 1994 (59 FR 7218).

The AQCR 131 area of Minnesota was designated primary nonattainment for SO_2 on March 3, 1978 (43 FR 8692). In response to the redesignation, the MPCA submitted a SO_2 plan in August 1980. The USEPA published a final rule approving the State's SO_2 Part D plan on April 8, 1981 (46 FR 20997). Subsequent monitored violations of the SO_2 National Ambient Air Quality Standards (NAAQS) prompted a 1982 notice of SIP inadequacy for the Dakota County area of AQCR 131. Also, as a result of the promulgation of the Good Engineering stack height rule in 1985, the MPCA identified modeled attainment problems in other areas of AQCR 131. The submittal of a revised plan for the area was further delayed by the passage of the CAAA in 1990. Final SO_2 SIP revisions were submitted to USEPA in

three parts. The plan for the majority of the AQCR 131 area was submitted May 29, 1992, and approved by USEPA on April 14, 1994 (59 FR 17703). The plan for the Pine Bend area (including the Koch Refining Company) of Dakota County was submitted on July 29, 1992, and approved by USEPA on September 9, 1994 (59 FR 46553). The plan for the St. Paul Park area (Ashland Petroleum Company) of AQCR 131 was submitted on December 22, 1992, and was approved on January 18, 1995 (60 FR 3544), effective March 20, 1995.

The remainder of this rulemaking will (1) evaluate the PM request for redesignation including the revised administrative order, (2) detail a review of the SO_2 request for redesignation, and (3) present the final rulemaking action.

II. Analysis of Submittal

Particulate Matter Request

The State PM redesignation request submittal consisted primarily of a maintenance plan and air quality monitoring data. An administrative order was also included in the submittal in support of the maintenance demonstration. The submittal contained text describing how the statutory requirements were met. These requirements are detailed in Title I, section 107(d)(3)(E) of the CAA. The specific criteria and how the State complied with the requirements are detailed below.

Section 107(d)(3)(E)(i) requires a determination of whether the area has attained the NAAQS. The State used both air quality monitoring data and a dispersion modeling analysis to show that the area has attained the 24-hour and annual NAAQS of 150 $\mu g/m^3$ and 50 $\mu g/m^3$, respectively. The modeling demonstration was included in the proposed SIP revision initially submitted to USEPA on November 26, 1991, and August 31, 1992. The modeling was performed in accordance with the USEPA document entitled ''Guideline on Air Quality Models, (Revised), including Supplement A,'' 1987. The Industrial Source Complex-Short Term (ISCST) model was used for the analysis. The modeling utilized urban dispersion coefficient, 5 years of National Weather Service meteorological data, regulatory default modeling options, and 100 meter spacing in high predicted impact areas. The demonstration explicitly modeled impacts from Rochester Public Utilities, and added in a concentration representative of local background sources. The analysis showed that, with all control measures in operation, modeled plus background concentrations of PM did not violate the NAAQS. A more detailed discussion of the modeling demonstration can be found in the June 25, 1993, notice of proposed rulemaking on the Rochester PM SIP revision (58 FR 34297). That proposed rulemaking concluded that the air dispersion modeling met the appropriate requirements.

Ambient air monitoring data for the years 1988 through the first quarter of 1994, was submitted from a PM monitor located at 7th Street and West Silver Lake Drive. This data has been quality assured and is available for review in the Aerometric Information Retrieval System (AIRS), monitor number 271090015. No monitored exceedances of the PM NAAQS have occurred in Olmsted County since the violation on June 14, 1988, which precipitated the redesignation to nonattainment for the Rochester area.

Section 107(d)(3)(E)(ii) states that USEPA may not promulgate a redesignation to attainment unless USEPA has fully approved the area SIP under section 110(k). The PM SIP for the Rochester area of Olmsted County was approved by USEPA on February 15, 1994. The revised administrative order for RPU, submitted with the redesignation requests and discussed more fully in a later section, is being approved in this direct final rulemaking.

Section 107(d)(3)(E)(iii) states that USEPA may not promulgate a redesignation request to attainment unless USEPA determines that ''the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions.''

The primary source of PM emissions in the Rochester nonattainment area is RPU. An administrative order, which does not expire and which was approved by USEPA on February 15, 1994, imposes emission limits and operating restrictions upon the Company. The initial order became effective at the State level in November 1992. The attainment demonstration submitted with the proposed SIP revision showed that the NAAQS for PM were not violated with the limits and restrictions in effect. Ambient air monitoring data shows there have been no exceedances since June 1988. Additionally, in 1988, RPU emitted 14.0 tons of PM, compared to 1992 annual emissions of 8.9 tons. The information presented by the State adequately demonstrates that the improvement in air quality can reasonably be attributed to reductions in emissions which are permanent and enforceable.

Section 107(d)(3)(E)(iv) states that USEPA may not promulgate a redesignation request to attainment unless USEPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A.

Section 175A defines the general framework of a maintenance plan as a SIP revision and that it must provide for maintenance of the NAAQS in the area for at least 10 years after redesignation. Section 175A further states that the plan shall contain such additional measures, as may be necessary to ensure such maintenance. In addition, the maintenance plan must contain contingency measures to promptly correct a violation of the NAAQS.

Maintenance Plan

The primary components of a maintenance plan are (1) the attainment inventory; (2) the maintenance demonstration; (3) verification of continued attainment; (4) the monitoring network; and (5) the contingency plan.

Attainment Inventory

The SIP revision submittal, approved on February 15, 1994, included a PM emission inventory as part of the modeling demonstration. The modeling analysis showed that the level of emissions in the area was sufficient to attain the PM NAAQS.

Maintenance Demonstration

As stated previously, RPU is the primary source of PM in the nonattainment area. An administrative order, issued to RPU, contains emission limits and operating restrictions which were shown through the modeling demonstration to provide for attainment of the NAAQS. The administrative order does not expire, therefore assuring that emissions from RPU will not increase over the next 10 years. A significant part of the modeled attainment demonstration is the contribution made from sources not included in the modeling inventory. The contribution from these sources is called the background concentration and is added to the modeled concentration for a total PM concentration. The background concentrations for the 24-hour and annual values were approximately 24 $\mu g/m^3$ and 12 $\mu g/m^3$, respectively. Vehicle emissions represent a background source of PM that change over time. The submittal projected a 14 percent increase in vehicle miles traveled (VMT) for the period from 1990 to 2005, based on information from

Olmsted County. This percentage increase, when applied entirely to VMT results in a 24-hour background value of 27 μg/m³, which results in a total area concentration of about 132 μg/m³. This is well below the NAAQS of 150 μg/m³. The new annual total area concentration would be about 34 μg/m³, also well below the NAAQS. To account for future industrial growth, the State permitting process requires any PM source potentially emitting 25 tons a year to demonstrate, through dispersion modeling, that attainment is met before the source may obtain a permit. Minor source growth will be checked through ambient air monitoring, but is unlikely to be significant enough to threaten the NAAQS given the current level of modeled and monitored concentrations.

Verification of Continued Attainment

Growth in the area will be monitored by use of the following: tracking new permit applications; tracking requests for permit amendments; review of annual emission inventories required by all permitted facilities.

Monitoring Network

The monitor currently in operation in the Rochester nonattainment area will remain operating to verify the attainment status of the area. The monitor will continue to operate in accordance with 40 Code of Federal Regulations Part 58, and the data will continue to be reported in AIRS.

Contingency Plan

Section 175(A)(d) of the CAA requires the submission of contingency provisions to assure that the State will promptly correct any violation of the PM standard which occurs after the area has been redesignated to attainment. The administrative order for RPU contains a contingency plan. A proposed amendment to the order was submitted so that the contingency plan shall be implemented if a violation of the NAAQS is determined from monitoring the area after the area has been designated attainment. Prior to the amendment, the plan would be implemented if timely attainment failed to occur. Thus, the amendment changes the triggering criteria but not the substance of the contingency measures that were approved in the February 15, 1994, final rulemaking. The contingency plan consists of applying a chemical binding agent to the coal pile, along with appropriate recordkeeping, and, if the violation is severe enough, wheel washing of vehicles leaving the coal yard. These measures become enforceable without further legislative or rulemaking action by either the State or USEPA and are to be implemented immediately upon a violation of the PM NAAQS.

Section 107(d)(3)(E)(v) states that USEPA may not promulgate a redesignation request to attainment unless the State has met all the requirements applicable to the nonattainment area under section 110 and part D. The State initially submitted revisions to its SIP for the Rochester nonattainment area on November 26, 1991. The submittal was reviewed against the requirements of the CAA, including section 110, section 189, and section 172. A final approval rulemaking, dated February 15, 1994, concluded that the submittal met the applicable requirements.

Sulfur Dioxide Request

The request for redesignation to attainment for the Twin Cities and Pine Bend area of AQCR 131 included technical support information such as ambient air monitoring data and air dispersion modeling summaries. The request package referenced the attainment demonstration which supported the recently approved SIP revision submittals for the Twin Cities and Pine Bend areas. The request also describes how it meets the requirements of Section 107, Title I, of the CAA. The specific requirements, although listed above, are summarized again in this section along with details of how the State complies with those requirements.

Section 107(d)(3)(E)(i) states that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless the Administrator determines that the area has attained the NAAQS. On May 29, 1992, and July 29, 1992, the MPCA submitted SIP revisions for the Twin Cities and Pine Bend areas of AQCR 131. The SIP revision submittals demonstrated attainment with the SO_2 NAAQS through the use of air dispersion modeling. These modeling demonstrations were found to meet the applicable requirements (59 FR 17703 and 59 FR 46553). In addition to the modeled attainment demonstration, ambient air monitoring data from the area network was included which showed no violations. The most recent exceedances occurred in 1987.

Section 107(d)(3)(E)(ii) states that an area may not be redesignated to attainment unless it has a fully approved SIP under section 110(k). The SIP for the Twin Cities area was approved by USEPA on April 14, 1994. The SIP revision for the Pine Bend area was approved by USEPA on September 9, 1994. The combination of these two area SIPs comprises the region requested to be redesignated to attainment.

Section 107(d)(3)(E)(iii) states that an area may not be redesignated to attainment unless it is determined that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of applicable SIP limits and operating restrictions. The AQCR 131 Twin cities area was originally designated nonattainment based on monitored violations of the NAAQS which occurred in the late seventies. Many factors could have contributed to the improvement in air quality since that time (e.g., better technology, lower sulfur fuels, reduction in number of sources). However, it can reasonably be determined that the enforceable emission limits, fuel quality specifications, and operating restrictions that have been imposed on the significant sources in the Twin Cities area have contributed greatly to, and are the primary reason for, the continued attainment of the SO_2 NAAQS in the area. The State submitted data showing the percent reductions in emissions for the facilities which were issued administrative orders as part of the SIP revision. Those facilities are Federal Hoffman, Incorporated, GAF Building Materials Corporation, Minneapolis Energy Center, Incorporated, Northern States Power Company-Riverside, United Defense, L.P., Koch Refining Company and Sulfur Acid Unit Plant, Continental Nitrogen and Resources Company, and Northern States Power Company-Inver Hills. The reductions are primarily the result of tighter emission limits imposed by the administrative orders.

Section 107(d)(3)(E)(iv) states that the Administrator may not promulgate a redesignation to attainment unless the area has a fully approved maintenance plan. The maintenance plan must meet the requirements of section 175(A) as mentioned previously. The primary requirement is for the SIP to provide for maintenance of the NAAQS for at least 10 years after the redesignation.

Maintenance Plan

The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan.

Attainment Inventory

The air dispersion modeling included in the May 29, 1992, and July 29, 1992, SIP submittals contained an emission inventory of the significant SO_2 sources

in the Twin Cities and Pine Bend areas. The inventory was used in the computer dispersion modeling analyses to demonstrate attainment. The modeling demonstrations met the appropriate requirements.

Maintenance Demonstration and Verification

The critical component of a maintenance demonstration is the ability to project attainment for a period of at least 10 years following the redesignation. The MPCA relied on the dispersion modeling, submitted with the earlier SIP revisions, to demonstrate that the limits and operating restrictions contained in the administrative orders were adequate to reach attainment. The administrative orders are Federally enforceable and do not expire. Future growth in the area will be monitored on a regular basis through the State's permitting process. The permitting threshold for SO_2 is 50 tons a year. Emission inventories must be submitted to the State on an annual basis. This will allow for monitoring of inventory changes and growth in the area.

There are several reasons to expect that future actual and estimated emissions of SO_2 will not increase in the Twin Cities and Pine Bend areas; production and use of lower sulfur diesel fuel, reducing SO_2 emissions to avoid the permitting process, and the conservative nature of the air dispersion modeling demonstration.

Ambient Air Monitoring

The SO_2 ambient air monitoring network, currently in place in the Twin Cities and Pine Bend areas, will remain in operation in order to continue verification of attainment status and the data will continue to be reported in AIRS.

Contingency Plan

Section 175A of the CAA requires that the maintenance plan include contingency provisions to correct any violation of the NAAQS after redesignation of the area. However, in the proposed General Preamble for the Implementation of Title I of the CAA Amendments of 1990, (57 FR 13498), it states that SO_2 provisions require special considerations. A primary reason is that SO_2 control methods are well established and understood. This results in less uncertainty in the modeled attainment demonstrations. It is considered unlikely that an area would fail to attain the standards after it has demonstrated, through modeling, that attainment is reached after the limits and restrictions are fully enforced. Therefore, contingency measures for SO_2 need only consist of a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive followup for compliance and enforcement. The MPCA has the necessary enforcement and compliance programs, as well as means by which to identify violators.

Section 107(d)(3)(E)(v) states that the Administrator may not redesignate an area to attainment unless the area has met the applicable requirements under section 110 and Part D. It was determined in the final rulemaking approval of the Twin Cities and Pine Bend area plans that the requirements under section 110 and Part D were met.

III. Rulemaking Action

The USEPA has evaluated the approvability of a request for redesignation to attainment for PM for Rochester, MN, (including an amendment to the administrative order for Rochester Public Utilities-Silver Lake Plant), and for SO_2 for the Twin Cities area and the Pine Bend area of AQCR 131. The submittal is being approved based on the determination that it meets the applicable requirements of Title I of the CAA. The USEPA is also using this publication to correct codification information for the Dakota County, MN lead SIP revision and redesignation approved on October 18, 1994 (59 FR 52431).

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on July 31, 1995, unless USEPA receives adverse or critical comments by June 30, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent **Federal Register** notice which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on July 31, 1995.

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

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant 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 a 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 USEPA to base its actions concerning SIPS on such grounds. Union Electric Co. v. USEPA, 427 U.S. 246, 256–66 (S.CT. 1976); 42 U.S.C. 7410(a)(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 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).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter.

List of Subjects in 40 CFR Part 81

Air pollution control.

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

Dated: April 19, 1995.

Valdas V. Adamkus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, parts 52 and 81, are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(42) to read as follows.

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(42) On September 7, 1994, the State of Minnesota submitted a revision to its State Implementation Plan (SIP) for particulate matter for the Rochester area of Olmsted County, Minnesota.

(i) Incorporation by reference.

(A) Amendment Two to the administrative order for the Silver Lake Plant of Rochester Public Utilities, located in Rochester, Minnesota, dated and effective August 31, 1994, submitted September 7, 1994.

3. Section 52.1229 is revised to read as follows: § 52.1229 Maintenance of national standards.

(a) USEPA has approved the following maintenance plans:

(1) The maintenance plan for lead for Dakota County, submitted June 22, 1993.

(2) The maintenance plan for particulate matter for Rochester, submitted September 7, 1994.

(3) The maintenance plan for sulfur dioxide for the Twin Cities area except for the Ashland Refinery area, submitted September 7, 1994.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.324, the table ''Minnesota SO_2'' is amended by revising the entry for ''AQCR 131'' to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 131:				
Anoka County				X
Carver County				X
Dakota County				X
Hennepin County				X
Ramsey County				X
Scott County (part) The area bounded on the north by Interstate 494; on the west by Highway 52; on the south by a line from the intersection of Highway 52 and 56 east to the County Line; on the east by the County line	X			
Rest of Scott County				X
Washington County (part) The area bounded on the west by the County line; on the south by a line extending from the County line east to 100th Street; on the east by Jamaica Avenue; on the north by Military Road and Interstate 494	X			
Rest of Washington County				X
* * * *	*	*		*

* * * * *

3. In § 81.324 the table ''Minnesota PM_{10}'' is amended by revising the entry for ''Olmstead County'' to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—PM_{10}

Designated area	Designation		Classification	
	Date	Type	Date	Type
* *	*	*	*	*
Olmsted County	July 31, 1995	Attainment		
* *	*	*	*	*

* * * * *

4. In § 81.324 the table ''Minnesota Lead'' is revised to read as follows:

§ 81.324 Minnesota

* * * * *

MINNESOTA—LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Dakota County ..... Rest of State not designated.	12/19/94	Attainment		

* * * * *

[FR Doc. 95–13179 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 8F3671/R2137; FRL–4955–7]

RIN 2070–AB78

Alachlor; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an increased tolerance for residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) and its metabolites in or on the raw agricultural commodity (RAC) sorghum forage at 2.0 parts per million (ppm). The Monsanto Co. requested the establishment of this maximum permissible residue of the herbicide pursuant the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 8F3671/R2137], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 8F3671/R2137]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager, (PM 25), Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 12, 1995 (60 FR 18558), EPA issued a proposed rule that gave notice that the Monsanto Co., 1101 17th St., NW., Washington, DC 20036, proposed amending 40 CFR 180.249 by establishing a regulation to permit the residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) and its metabolites in or or sorghum forage at 2.0 part per million (ppm).

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

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

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 8F3671/R2137] (including any objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 8F3671/R2137], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at: opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: May 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.249, by amending the table therein by revising the entry for sorghum forage, to read as follows:

§ 180.249 Alachlor; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Sorghum, forage	2.0
* * * * *	

[FR Doc. 95–13249 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4F4280/R2135; FRL–4954–4]

RIN 2070–AB78

Benzoic Acid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of the insecticide benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, in or on the raw agricultural commodity walnuts. The Rohm & Haas Co. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). The regulation establishes a maximum permissible level for residues of benzoic acid in or on the commodity.

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4280/R2135], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4F4280/R2135]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Richard P. Keigwin, Jr., Product Manager (PM) 10, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 214, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-7001; e-mail: Keigwin.rick@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of April 5, 1995 (60 FR 17357), which announced that Rohm & Haas Co. had submitted pesticide petition PP 4F4280 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food,

Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish a tolerance for residues of the insecticide benzoic acid, 3,5-dimethyl-1,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, in or on the raw agricultural commodity walnuts at 0.1 part per million (ppm).

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

1. A 1-year dog feeding study with a lowest-observable-effect level (LOEL) of 250 ppm (9 mg/kg/day for male and female dogs) based on decreases in RBC, HCT, and HGB, increases in Heinz bodies, methemoglobin, MCV, MCH, reticulocytes, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver weight and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in the marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The no-observable-effect level (NOEL) for systemic toxicity in both sexes is 50 ppm (1.9 mg/kg/day).

2. An 18-month mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm.

3. A 2-year rat carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, repectively).

4. A two-generation rat reproduction study with a NOEL of 150 ppm (12.1 mg/kg/day) for reproductive effects compared to a systemic NOEL of 10 ppm (0.85 mg/kg/day).

5. A rat developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity.

6. A rabbit developmental study with a NOEL of 1,000 mg/kg/day for developmental toxicity.

7. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, an *in vitro* chromosome aberration assay in CHO cells, a CHO/HGPRT assay, a reverse mutation assay with *E. coli,* and an unscheduled DNA synthesis assay (UDS) in rat hepatocytes.

The reference dose (RfD), for chronic toxicity as defined in a 1-year chronic dog study is 0.019 mg/kg/day based upon a NOEL of 1.9 mg/kg/day in dogs of both sexes and applying an uncertainty factor of 100. The theoretical maximum residue contribution (TMRC) for this first food use of benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide on walnuts for the overall U.S. population is less than 0.000001 mg/kg/day and represents 0.003% of the RfD. The TMRC for the highest exposed subgroup, children (ages 1 6 years old), is less than 0.000001 mg/kg/day and represents 0.008% of the RfD.

The metabolism of benzoic acid, 3,5-dimethyl-1-(1,1dimethylethyl)-2-(4-ethylbenzoyl)hyrazide, is adequately understood. An adequate analytical method, HPLC separation with UV detection, is available for enforcement purposes and is being provided to FDA for inclusion in the Pesticide Analytical manual, Vol. II.

There are currently no actions pending against the registration of this chemical. There is no expectation of residues occurring in meat, milk, poultry, or eggs from this tolerance.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4F4280/R2135] (including objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 4F4280/R2135], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating

serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: May 12, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. By adding new § 180.842, to read as follows:

§ 180.842 Benzoic acid; tolerances for residues.

A tolerance is established for residues of the insecticide benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, in or on the following raw agricultural commodity:

Commodity	Parts per million
Walnuts	0.1

[FR Doc. 95–13250 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 2E4051/R2136; FRL–4955–5]

RIN 2070–AB78

Difenoconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes import tolerances for residues of the fungicide difenoconazole in or on the raw agricultural commodities barley grain, rye grain, and wheat grain at 0.1 part per million (ppm); fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep and eggs at 0.05 ppm; and milk at 0.01 ppm. Ciba-Geigy Corp. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). The regulation establishes the maximum permissible level for residues of the fungicide in or on the commodities.

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 2E4051/R2136], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 2E4051/R2136]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: James Stone, Acting Product Manager (PM) 22, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 259, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7391; e-mail: stone.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 12, 1995 (60 FR 18555), EPA issued a proposed rule that gave notice that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had petitioned EPA under section 408 of the FFDCA, 21 U.S.C. 346a, to establish import tolerances under 40 CFR 180.475 for residues of the fungicide difenoconazole, [(2*S*,4*R*)/(2*R*,4*S*)]/[(2*R*,4*R*/2*S*,4*S*)] 1-(2-[4-(4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1*H*-1,2,4-triazole, in or on the raw agricultural commodities (RACs) barley grain, rye grain, and wheat grain at 0.1 ppm; fat, meat, and meat byproducts (mbyp) of cattle, goats, hogs, horses, poultry, and sheep and eggs at 0.04 ppm; and milk at 0.01 ppm.

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

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

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by

40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 2E4051/R2136] (including any objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 2E4051/R2136], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: May 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.475, by adding new paragraph (c), to read as follows:

§ 180.475 Difenoconazole; tolerances for residues.

* * * * *

(c) Tolerances are established for difenoconazole, [(2*S*,4*R*)/(2*R*,4*S*)]/[(2*R*,4*R*/2*S*,4*S*)] 1-(2-[4-(4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1*H*-1,2,4-triazole, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain[1]	0.1
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mbyp	0.05
Eggs	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbyp	0.05
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mbyp	0.05
Horses, fat	0.05
Horses, meat	0.05
Horses, mbyp	0.05
Milk	0.01
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, mbyp	0.05
Rye, grain[1]	0.1
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbyp	0.05
Wheat, grain	0.1

[1]There are no U.S. registrations as of April 12, 1995.

[FR Doc. 95–13248 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 3F4167/R2129; FRL–4952–2]

RIN 2070–AB78

Tebuconazole; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance of 0.05 part per million (ppm) for residues of the fungicide tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol) in or on the raw agricultural commodity bananas. Miles, Inc., submitted a petition pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) for the regulation to establish

a maximum permissible level for residues of the fungicide.

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3F4167/R2129], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 3F4167/R2129]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of October 21, 1993 (58 FR 54353), which announced that Miles, Inc., Agricultural Division (formerly Mobay Corp., Agricultural Chemicals Division), P.O. Box 4913, Kansas City, MO 64120-0013, had submitted pesticide petition (PP) 3F4167 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish a tolerance for residues of the fungicide tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol) in or on the raw agricultural commodity bananas at 0.05 ppm.

There were no comments received in response to the notice of filing. The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include:

1. A 90-day rat feeding study with a no-observed-effect-level (NOEL) of 34.8 milligrams per kilogram of body weight per day (mg/kg bw/day) (400 ppm) and a lowest-effect-level (LEL) of 171.7 mg/kg bw/day (1,600 ppm) in males, based on decreased body weight gains and histological changes in the adrenals. For females, the NOEL was 10.8 mg/kg bw/day (100 ppm), and the LEL was 46.5 mg/kg bw/day (400 ppm) based on decreased body weights, decreased body weight gains, and histological changes in the adrenals.

2. A 90-day dog feeding study with a NOEL of 200 ppm (73.7 mg/kg bw/day in males and 73.4 mg/kg bw/day in females) and a LEL of 1,000 ppm (368.3 mg/kg bw/day in males and 351.8 mg/kg bw/day in females). The LEL was based on decreases in mean body weights, body weight gains, and food consumption, and an increase in liver *N*-demethylase activity.

3. A 1-year dog feeding study with a NOEL of 1 mg/kg bw/day (40 ppm) and a LEL of 5 mg/kg bw/day (200 ppm), based on lenticular and corneal opacity and hepatic toxicity in either sex (the current Reference Dose was determined based on this study). A subsequent 1-year dog feeding study, using lower doses to further define the NOEL for tebuconazole, defines a systemic LOEL of 150 ppm (based on adrenal effects in both sexes) and a systemic NOEL of 100 ppm.

4. A 2-year rat chronic feeding study defined, a NOEL of 7.4 mg/kg bw/day (100 ppm), and a LEL of 22.8 mg/kg bw/day (300 ppm) based on body weight depression, decreased hemoglobin, hematocrit, MCV and MCHC, and increased liver microsomal enzymes in females. Tebuconazole was not oncogenic at the dose levels tested (0, 100, 300, 1,000 ppm).

5. A rat oral developmental toxicity study with a maternal NOEL of 30 mg/kg bw/day and a LEL of 60 mg/kg bw/day based on elevation of absolute and relative liver weights. For developmental toxicity, a NOEL of 30 mg/kg bw/day and an LEL of 60 mg/kg bw/day was determined, based on delayed ossification of thoracic, cervical and sacral vertebrae, sternum, fore and hind limbs and increase in supernumerary ribs.

6. A rabbit oral developmental toxicity study with a maternal NOEL of 30 mg/kg bw/day and an LEL of 100 mg/kg bw/day based on depression of body weight gains and food consumption. A developmental NOEL of 30 mg/kg bw/day and an LEL of 100 mg/kg bw/day were based on increased post-implantation losses, from both early and late resorptions and frank malformations in eight fetuses of five litters.

7. A mouse oral developmental toxicity study with a maternal NOEL of 10 mg/kg bw/day and an LEL of 20 mg/kg bw/day based on a supplementary study indicating reduction in hematocrit and histological changes in liver. A developmental NOEL of 10 mg/kg bw/day and an LEL of 30 mg/kg bw/day based on dose-dependent increases in runts/dam at 30 and 100 mg/kg bw/day.

8. A mouse dermal developmental toxicity study with a maternal NOEL of 30 mg/kg bw/day and an LEL of 60 mg/kg bw/day based on a supplementary study indicating increased liver microsomal enzymes and histological changes in liver. The NOEL for developmental toxicity in the dermal study in the mouse is 1,000 mg/kg bw/day, the highest dose tested (HDT).

9. A two-generation rat reproduction study with a dietary maternal NOEL of 15 mg/kg bw/day (300 ppm) and a LEL of 50 mg/kg bw/day (1,000 ppm) based on depressed body weights, increased spleen hemosiderosis, and decreased liver and kidney weights. A reproductive NOEL of 15 mg/kg bw/day (300 ppm) and an LEL of 50 mg/kg bw/day (1,000 ppm) were based on neonatal birth weight depression.

10. An Ames mutagenesis study in Salmonella that showed no mutagenicity with or without metabolic activation.

11. A micronucleus mutagenesis assay study in mice that showed no genotoxicity.

12. A sister chromatid exchange mutagenesis study using CHO cells that was negative at dose levels 4 to 30 micrograms per milliliter without activation or 15 to 120 micorgrams per milliliter with activation.

13. An unscheduled DNA synthesis (UDS) study that was negative for UDS in rat hepatocytes.

Additionally, a mouse oncogenicity study at dietary levels of 0, 20, 60, and 80 ppm for 21 months did not reveal any oncogenic effect for tebuconazole at any dose tested. Because the Maximum Tolerated Dose (MTD) was not reached in this study, the study was classified as supplementary. A followup mouse study at higher doses (0, 500, and 1,500 ppm in the diet), with an MTD at 500 ppm, revealed statistically significant incidences of hepatocellular adenomas and carcinomas in males and carcinomas in females. The initial and followup studies, together with supplementary data submitted by Miles, Inc., were classified as core minimum.

The Office of Pesticide Programs' Health Effects Division's Carcinogenicity Peer Review Committee (CPRC) has classified tebuconazole as a Group C carcinogen (possible human carcinogen). This classification is based on the Agency's ''Guidelines for Carcinogen Risk Assessment'' published in the **Federal Register** of September 24, 1986 (51 FR 33992). The Agency has chosen to use the reference dose calculations to estimate human dietary risk from tebuconazole residues. The decision supporting classification of tebuconazole as a possible carcinogen (Group C) rather than a probable carcinogen (Group B) was primarily based on the statistically significant increase in the incidence of hepatocellular adenomas, carcinomas, and combined adenomas/carcinomas in both sexes of NMRI mice both by positive trend and pairwise comparison at the HDT, and the structural correlation with at least six other related triazole pesticides that produce liver tumors.

The Reference Dose (RfD) is established at 0.01 mg/kg of body weight (bwt)/day, based on a no-observed-effect level (NOEL) of 1.00 mg/kg bwt/day and an uncertainty factor of 100. The NOEL is based on a 1-year dog feeding study that demonstrated lenticular and corneal opacity and hepatic toxicity as an endpoint effect. The Theoretical Maximum Residue Contribution (TMRC) from the current action is estimated at 0.000019 mg/kg bwt/day and utilizes 0.19% of the RfD for the general population of the 48 States. The TMRCs for the most highly exposed subgroups, children (1 to 6 years old) and children (7 to 12 years old) are 0.000060 mg/kg bwt/day (0.60% of the RfD) and 0.000032 mg/kg bwt/day (0.32% of the RfD), respectively.

The nature of the residue in bananas is adequately understood. An adequate analytical method using gas chromatography is available for enforcement purposes.

The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Volume II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5232.

There is no reasonable expectation that secondary residues will occur in milk, eggs, or meat of livestock and poultry since there are no livestock feed items associated with this action.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 3F4167/R2129] (including objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 3F4167/R2129], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

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Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or

more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: May 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.474, by amending the table therein by adding and alphabetically inserting an entry for bananas, to read as follows:

§ 180.474 Tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol); tolerances for residues.

* * * * *

Commodity	Parts per million
Bananas	0.05

* * * * * *

[FR Doc. 95–13251 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180 and 186

[PP 8F3646 and FAP 8H5558/R2138; FRL–4955–8]

RIN 2070–AB78

Sethoxydim; Pesticide Tolerance and Feed Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an increased tolerance for residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodity sugar beet roots to 1.0 part per million (ppm) and an increase in the established feed additive regulation on the animal feed commodity sugarbeet molasses to 10.0 ppm. The BASF Corp. requested these regulations pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). These regulations establish the maximum permissible levels for residues of the pesticide in or on the above commodities.

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 8F3646 and FAP 8H5558/R2138], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 8F3646 and FAP 8H5558/R2138]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager, (PM 25), Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 12, 1995 (60 FR 18560), EPA issued a proposed rule that gave notice that the BASF Corp., P.O. Box 13528, Research Triangle Park, NC 27709-3528, had submitted a pesticide petition, PP 8F3646, and a feed additive petition, FAP 8H5558, to EPA. PP 8F3646 requests that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR part 180 by establishing a tolerance for the combined residues of the herbicide sethoxydim (2-[1-ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide)) in or on the raw agricultural commodity (RAC) sugarbeet roots at 1.0 part per million (ppm). Feed additive petition (FAP) 8H5558 requests that the Administrator, pursuant to section 409(e) of the FFDCA (21 U.S.C. 348), amend 40 CFR part 186 by establishing a feed additive regulation for the combined residues of the herbicide

sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the animal feed sugar beet molasses at 10.0 ppm.

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

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

Any person adversely affected by these regulations may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 8F3646 and FAP 8H5558/R2138] (including any objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 8F3646 and 8H5558/R2138], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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

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

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

List of Subjects in 40 CFR Parts 180 and 186

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

Dated: May 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

1. In part 180:

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

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

b. In § 180.412(a), by amending the table therein by revising the entry for sugar beet, roots, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; tolerances for residues

(a) * * *

Commodity	Parts per million
* * * * *	
Sugar beet, roots	1.0
* * * * *	

* * * * *

PART 186—[AMENDED]

2. In part 186:

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

Authority: 21 U.S.C. 348.

b. In § 186.2800, by revising the section heading and introductory text

and by amending the table therein by revising the entry for sugar beet molasses, to read as follows:

§ 186.2800 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one.

Tolerances are established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the following commodities:

Food	Parts per million
* * * * *	
Sugar beet molasses	10.0
* * * * *	

[FR Doc. 95–13247 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180, 185, and 186

[PP 9F3731 and FAP 9H5574/R2139; FRL–4955–9]

RIN 2070–AB78

Cyfluthrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes time-limited tolerances, with an expiration date of November 15, 1997, for residues of the synthetic pyrethroid cyfluthrin in or on the raw agricultural commodities (RAC's) tomatoes; carrots; peppers; radishes; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; milkfat; and eggs and in the food/feed additive commodities tomato, pomace (dry and wet) and tomato concentrated products. Bayer Corp., Agricultural Division (formerly Miles Corp., Animal Products), requested the tolerances and regulations pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA). The tolerances and regulations establish maximum permissible levels for residues of the pesticide in or on the commodities.

EFFECTIVE DATE: This regulation becomes effective May 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 9F3731 and FAP 9H5574/R2139], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 9F3731 and FAP 9H5574/R2139]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM 13), Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 12, 1995 (60 FR 18561), EPA issued a proposed rule that gave notice that pesticide petition (PP) 9H5574 submitted to EPA under section 408(d) of the FFDCA proposed to amend 40 CFR 180.436 by establishing time-limited tolerances for residues of the insecticide cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)-methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the RAC's tomatoes at 0.20 part per million (ppm); carrots at 0.20 ppm; peppers at 0.50 ppm; radishes at 1.00 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.40 ppm; meat, fat, and meat byproducts of poultry at 0.01 ppm; milkfat (reflecting 0.08 ppm in whole milk) at 2.50 ppm; and eggs at 0.01 ppm; and pursuant to food/feed additive petition (FAP) 9H5574 submitted to EPA under section 409(e) of the FFDCA, EPA proposed to amend 40 CFR 185.1250 to establish a time-limited food additive regulation for tomato, concentrated products at 0.5 ppm and to amend 40 CFR 186.1250 to establish a time-limited feed additive regulation for tomato, pomace (dry and wet) at 5.0 ppm.

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

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

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

issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 9F3731 and FAP 9H5574/R2139] (including any objections and hearing requests submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 9F3731 and FAP 9H5574/R2139], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

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

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

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

List of Subjects in 40 CFR Parts 180, 185, and 186

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

Dated: May 19, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

1. In part 180:

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

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

b. By amending § 180.436 by revising the table therein, to read as follows:

§ 180.436 Cyfluthrin; tolerances for residues

* * * * *

Commodity	Parts per million	Expiration date
Carrots	0.20	Nov. 15, 1997.
Cattle, fat	0.40	Do.
Cattle, meat	0.40	Do.
Cattle, mbyp	0.40	Do.
Cottonseed	1.0	Do.
Eggs	0.01	Do.
Goats, fat	0.40	Do.
Goats, meat	0.40	Do.
Goats, mbyp	0.40	Do.
Hogs, fat	0.40	Do.
Hogs, meat	0.40	Do.
Hogs, mbyp	0.40	Do.
Hops, fresh	4.0	None.
Horses, fat	0.40	Nov. 15, 1997.
Horses, meat	0.40	Do.
Horses, mbyp	0.40	Do.
Milkfat (reflecting 0.08 ppm in whole milk).	2.50	Do.
Peppers	0.50	Do.
Poultry, fat	0.01	Do.
Poultry, meat	0.01	Do.
Poultry, mbyp	0.01	Do.
Radishes	1.00	Do.
Sheep, fat	0.40	Do.
Sheep, meat	0.40	Do.
Sheep, mbyp	0.40	Do.
Tomato	0.20	Do.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.1250, by revising paragraph (a) and removing paragraph (b) and designating it as reserved, as follows:

§ 185.1250 Cyfluthrin.

(a) A time-limited tolerance, to expire on November 15, 1997, is established for residues of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the following food commodities:

Commodity	Parts per million	Expiration date
Cottonseed oil	2.0	Nov. 15, 1997.
Tomato, concentrated products.	0.5	Do.

(b) [Reserved]

* * * * *

PART 186—[AMENDED]

3. In part 186:

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

Authority: 21 U.S.C. 348.

b. In § 186.1250, by revising paragraph (a) and removing paragraph (b) and designating it as reserved, as follows:

§ 186.1250 Cyfluthrin.

(a) A time-limited tolerance, to expire on November 15, 1997, is established for residues of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the following feed commodities:

Commodity	Parts per million	Expiration date
Cottonseed, hulls	2.0	Nov. 15, 1997.
Tomato, pomace (dry and wet)	5.0	Do.

(b) [Reserved]

* * * * *

[FR Doc. 95–13261 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2544

RIN 3045–AA13

Solicitation and Acceptance of Donated Property and Services.

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National Service (the Corporation) is issuing uniform rules and regulations regarding the solicitation and acceptance or rejection of property and services. Pursuant to the National and Community Service Act of 1990, as amended, the Corporation has the authority to solicit and accept donations. The Corporation is adopting these rules and regulations to eliminate the possibility of confusion for individuals who wish to donate property or services to the Corporation. In addition, the Corporation wants to insure that no situations arise involving a real or apparent conflict of interest with respect to a donation or an individual or group who offers a donation.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Stewart Davis, Office of the General Counsel, The Corporation for National Service, 1201 New York Ave. NW., Washington DC, 20525. (202) 606–5000 x. 265.

SUPPLEMENTARY INFORMATION: The Corporation published in the **Federal Register** on April 7, 1995 (60 FR 17761) a notice of proposed rule making on the Solicitation and Acceptance of Donated Property and Services. The proposed rule established uniform rules and regulations regarding the solicitation and acceptance or rejection of property and services. The Corporation did not receive any comments in response to the April 7, 1995, notice. Accordingly, the Corporation is submitting the regulations as a Final Rule.

Miscellaneous Requirements

The Corporation has determined that this is not a ''significant regulatory action'' within the meaning of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget. This rule will not have a substantial impact on a significant number of small entities, thus a regulatory flexibility analysis has not been prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Because this rule does not involve collection of information or impose record keeping requirements, the Paperwork Reduction Act of 1980 does not apply. The Corporation has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment pursuant to Executive Order 12612. In addition, the Corporation has determined that implementation of this action will not have any significant impact on the quality of the human environment pursuant to the National Environmental Policy Act.

List of Subjects in 45 CFR Part 2544

Administrative practice and procedure, Gifts to government, Government property.

Dated: May 24, 1995.

Terry Russell,

General Counsel, Corporation for National Service.

Accordingly, as set forth in the preamble, the Corporation amends title 45, chapter XXV of the Code of Federal Regulations by adding part 2544 to read as follows:

PART 2544—SOLICITATION AND ACCEPTANCE OF DONATIONS

Sec.

2544.100 What is the purpose of this part?
2544.105 What is the legal authority for soliciting and accepting donations to the Corporation?
2544.110 What definitions apply to terms used in this part?
2544.115 Who may offer a donation?
2544.120 What personal services from a volunteer may be solicited and accepted?
2544.125 Who has the authority to solicit and accept or reject a donation?
2544.130 How will the Corporation determine whether to solicit or accept a donation?
2544.135 How should an offer of a donation be made?
2544.140 How will the Corporation accept or reject an offer?
2544.145 What will be done with property that is not accepted?
2544.150 How will accepted donations be recorded and used?

Authority: 42 U.S.C. 12501 *et seq.*

§ 2544.100 What is the purpose of this part?

This part establishes rules to ensure that the solicitation, acceptance, holding, administration, and use of property and services donated to the Corporation:

(a) Will not reflect unfavorably upon the ability of the Corporation or its officers and employees, to carry out their official duties and responsibilities in a fair and objective manner; and

(b) Will not compromise the integrity of the Corporation's programs or its officers and employees involved in such programs.

§ 2544.105 What is the legal authority for soliciting and accepting donations to the Corporation?

Section 196(a) of the National and Community Service Act of 1990, as amended (42 U.S.C. 12651g(a)).

§ 2544.110 What definitions apply to terms used in this part?

(a) *Donation* means a transfer of money, property, or services to or for the use of the Corporation by gift, devise, bequest, or other means.

(b) *Solicitation* means a request for a donation.

(c) *Volunteer* means an individual who donates his/her personal service to the Corporation to assist the Corporation in carrying out its duties under the national service laws, but who is not a participant in a program funded or sponsored by the Corporation under the National and Community Service Act of 1990, as amended. Such individual is not subject to provisions of law related to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Federal employee benefits, except that—

(1) Volunteers will be considered Federal employees for the purpose of the tort claims provisions of 28 U.S.C. chapter 171;

(2) Volunteers will be considered Federal employees for the purposes of 5 U.S.C. chapter 81, subchapter I, relating to compensation to Federal employees for work injuries; and

(3) Volunteers will be considered special Government employees for the purpose of ethics and public integrity under the provisions of 18 U.S.C. chapter 11, part I, and 5 CFR chapter XVI, subchapter B.

(d) *Inherently governmental function* means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

§ 2544.115 Who may offer a donation?

Anyone, including an individual, group of individuals, organization, corporation, or association may offer a donation to the Corporation.

§ 2544.120 What personal services from a volunteer may be solicited and accepted?

A donation in the form of personal services from a volunteer may be solicited and accepted to assist the Corporation in carrying out its duties. However, volunteers may not perform an inherently governmental function.

§ 2544.125 Who has the authority to solicit and accept or reject a donation?

The Chief Executive Officer (CEO) of the Corporation has the authority to solicit, accept, or reject a donation offered to the Corporation and to make the determinations described in § 2544.130 (c) and (d). The CEO may delegate this authority in writing to other officials of the Corporation.

§ 2544.130 How will the Corporation determine whether to solicit or accept a donation?

(a) The Corporation will solicit and accept a donation only for the purpose of furthering the mission and goals of the Corporation.

(b) In order to be accepted, the donation must be economically advantageous to the Corporation, considering foreseeable expenditures for matters such as storage, transportation, maintenance, and distribution.

(c) An official or employee of the Corporation will not solicit or accept a donation if the solicitation or acceptance would present a real or apparent conflict of interest. An apparent conflict of interest is presented if the solicitation or acceptance would raise a question in the mind of a reasonable person, with knowledge of the relevant facts, about the integrity of the Corporation's programs or operations.

(d) The Corporation will determine whether a conflict of interest exists by considering any business relationship, financial interest, litigation, or other factors that may indicate such a conflict. Donations of property or voluntary services may not be solicited or accepted from a source which:

(1) Is a party to a grant or contract with the Corporation or is seeking to do business with the Corporation;

(2) Has pecuniary interests that may be substantially affected by performance or nonperformance of the Corporation; or

(3) Is an organization a majority of whose members are described in paragraphs (d)(1) and (2) of this section.

(e) Any solicitation or offer of a donation that raises a question or concern of a potential, real, or apparent conflict of interest will be forwarded to the Corporation's Designated Ethics Official for an opinion.

§ 2544.135 How should an offer of a donation be made?

(a) In general, an offer of donation should be made by providing a letter of tender that offers a donation. The letter should be directed to an official authorized to accept donations, describe the property or service offered, and specify any purpose for, or condition on, the use of the donation.

(b) If an offer is made orally, the Corporation will send a letter of acknowledgment to the offeror. If the donor is anonymous, the Corporation will prepare a memorandum to the file acknowledging receipt of a tendered donation and describing the donation including any special terms or conditions.

(c) Only those employees or officials with expressed notice of authority may accept donations on behalf of the Corporation. If an offer is directed to an unauthorized employee or official of the Corporation, that person must immediately forward the offer to an appropriate official for disposition.

§ 2544.140 How will the Corporation accept or reject an offer?

(a) In general, the Corporation will respond to an offer of a donation in writing and include in the response:

(1) An acknowledgment of receipt of the offer;

(2) A brief description of the offer and any purpose or condition that the offeror specified for the use of the donation;

(3) A statement either accepting or rejecting the donation; and

(4) A statement informing the donor that any acceptance of services or property can not be used in any manner, directly or indirectly, that endorses the donor's products or services or appears to benefit the financial interests or business goals of the donor.

(b) If a purpose or condition for the use of the donation specified by the offeror can not be accommodated, the Corporation may request the offeror to modify the terms of the donation.

§ 2544.145 What will be done with property that is not accepted?

In general, property offered to the Corporation but not accepted will be returned to the offeror. If the offeror is unknown or the donation would spoil if returned, the property will either be disposed of in accordance with Federal Property Management regulations (41 CFR chapter 101) or given to local charities determined by the Corporation.

§ 2544.150 How will accepted donations be recorded and used?

(a) All accepted donations of money and other property will be reported to the Chief Financial Officer (CFO) of the Corporation for recording and appropriate disposition.

(b) All donations of personal services of a volunteer will be reported to the CFO and to the Personnel Division of the Corporation for processing and documentation.

(c) Donations not designated for a particular purpose will be used for an authorized purpose described in § 2544.125.

(d) Property will be used as nearly as possible in accordance with the terms of the donation. If no terms are specified, or the property can no longer be used for its original purpose, the property will be converted to another authorized use or sold in accordance with Federal regulations. The proceeds of the sale will be used for an authorized purpose described in § 2544.125.

[FR Doc. 95–13236 Filed 5–30–95; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–142; RM–8546]

Radio Broadcasting Services; Knoxville, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation

document which was published Monday, April 24, 1995 (60 FR 20052).

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Shifflett, Publications Branch, (202) 418–0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the effective date, the window period and closing date.

Correction of Publication

Accordingly, the publication on April 24, 1995 of the final regulations, which were the subject of FR Doc. 95–10026 is corrected as follows:

On page 20052, in the second column, in the **DATES** section, the effective date, the window period for filing applications should be June 5, 1995 in lieu of May 29, 1995.

The closing date for filing applications should be July 6, 1995 in lieu of June 13, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–13215 Filed 5–30–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–68; RM 8486]

Radio Broadcasting Services; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation document which was published Monday, April 24, 1995 (60 FR 20052).

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Shifflett, Publications Branch, (202) 418–0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the effective date, the window period and closing date.

Correction of Publication

Accordingly, the publication on April 24, 1995 of the final regulations, which were the subject of FR Doc. 95–10025 is corrected as follows:

On page 20052, in the third column, in the **DATES** section, the effective date, the window period for filing applications should be June 5, 1995 in lieu of May 29, 1995.

The closing date for filing applications should be July 6, 1995 in lieu of June 13, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–13214 Filed 5–30–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 76

[CS Docket No. 94–95; DA 95–1121]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this action, amends its rules regarding the listing of major television markets to change the designation of the Tampa-St. Petersburg-Clearwater, Florida television market to include the community of Lakeland, Florida. This action is taken at the request of Public Interest Corporation, licensee of television station WTMV(TV), channel 32, Lakeland, Florida.

EFFECTIVE DATE: Rule provisions of Part 76 shall be effective June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Leora Hochstein, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, CS Docket No. 94–95, adopted May 16, 1995 and released May 25, 1995. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street NW., Washington, DC 20554.

Synopsis of the Report and Order

1. Before the Commission is the *Notice of Proposed Rule Making* adopted on August 12, 1994 and released on August 15, 1994, 59 FR 43805 (1994), issued in response to a petition filed by Public Interest Corporation, licensee of television station WTMV(TV), channel 32, Lakeland, Florida (''WTMV''). The *Notice* proposed to amend § 76.51 of the Commission's Rules, to change the designation of the Tampa-St. Petersburg-Clearwater, Florida television market to ''Tampa-St. Petersburg-Clearwater-Lakeland, Florida.'' No comments in opposition to this proposal have been filed.

Background

2. Section 76.51 of the Commission's Rules enumerates the top 100 television markets and the designated communities within those markets. Among other things, this market list is used to determine the scope of territorial exclusivity rights that television broadcast stations may purchase and, in addition, may help define the scope of compulsory copyright license liability for cable operators in certain circumstances. Certain cable television syndicated exclusivity and network nonduplication rights are also determined by the presence of broadcast station communities of license on this list. Some of the markets consist of more than one named community (a ''hyphenated market''). Such ''hyphenation'' of a market is based on the premise that stations licensed to any of the named communities in the hyphenated market do, in fact, compete with all stations licensed to such communities. Market hyphenation ''helps equalize competition'' where portions of the market are located beyond the Grade B contours of some stations in the area yet the stations compete for economic support.

3. Section 4 of the Cable Television Consumer Protection and Competition Act of 1992 (''Cable Act''), which amended Section 614 of the Communications Act of 1934, as amended (''Act''), requires the Commission to make revisions needed to update the list of top 100 television markets and their designated communities in § 76.51 of the Commission's Rules.

Rule Making Comments

4. The petitioner contends that WTMV in Lakeland competes directly with television stations in the Tampa-St. Petersburg-Clearwater hyphenated market for audience share and advertising revenues. Although Lakeland is located inside the Tampa-St. Petersburg ''area of dominant influence'' (''ADI''), the petitioner argues that because Lakeland is not a designated community in the above market, WTMV is considered a ''distant signal'' for purposes of compulsory copyright license liability if carried on cable systems more than 35 miles from Lakeland. According to the petitioner, the consequence of being classified as a ''distant signal'' is that cable systems will have to pay significant copyright

royalties in order to carry WTMV, and WTMV, in turn, will have to indemnify the cable systems for these royalties. In contrast, stations licensed to communities specifically designated in § 76.51 are considered local for all cable systems within the 35-miles zones of the listed communities in a given hyphenated market and are not subject to copyright liability. The petitioner asserts that because WTMV may have to pay copyright fees attendant to its carriage as a ''distant signal'' that stations in Tampa, St. Petersburg and Clearwater do not, WTMV is disadvantaged in its competition with these stations.

5. In support of its proposal, the petitioner states that it meets all of the criteria stipulated by the Commission for redesignation of the hyphenated market. The petitioner contends that Lakeland is sufficiently proximate to Tampa, St. Petersburg and Clearwater to be considered part of the Tampa-St. Petersburg-Clearwater hyphenated market. According to the petitioner, Lakeland is only 31 miles from Tampa, 47 miles from St. Petersburg, and 50 miles from Clearwater. The petitioner maintains that because of this geographic proximity, Lakeland, Tampa, St. Petersburg and Clearwater have shared economic, social and cultural interests which link them together as a single television market. The petitioner submits a contour map showing that WTMV provides city grade contour coverage to part of Tampa, Grade A contour coverage to virtually all of Tampa, and Grade B contour coverage to all of St. Petersburg. Clearwater is just beyond WTMV's Grade B contour, however, it is part of the Tampa-St. Petersburg ADI. A map delineating the Grade B contours of stations in the Tampa area reveals that the signal contours of WTMV substantially overlap with the signal contours of other stations in the Tampa-St. Petersburg ADI. To further support its contention that WTMV competes directly with Tampa market stations and is an integral part of the Tampa-St. Petersburg ADI, the petitioner asserts that WTMV is widely recognized as a Tampa market station. In particular, the petitioner notes the following: Tampa newspapers and magazines include WTMV in television program listings; Tampa-based publications have recognized the station for its programming and commitment to local service; program syndicators charge WTMV Tampa market rates for programming; and Tampa businesses as well as regional and national advertisers buy time on WTMV. In addition, the petitioner states that WTMV carries many ABC, NBC and CBS programs when the Tampa network affiliates preempt their network programming and that WTMV is the Tampa television affiliate for the Florida Marlins major league baseball club. The petitioner urges the Commission to add Lakeland to the Tampa-St. Petersburg-Clearwater hyphenated market in order to redress what the petitioner perceives as a competitive imbalance between WTMV and stations licensed to Tampa, St. Petersburg and Clearwater.

Discussion

6. A ''hyphenated market'' has been described by the Commission as a television market that contains more than one major population center supporting all stations in the market, with competing stations licensed to different cities within the market area. In evaluating past requests for hyphenation of a market, the Commission has considered the following as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent ''with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete.''

7. Based on the facts presented here, we believe that a case for redesignation of the subject market has been set forth so that this proposal should be adopted. It appears from the information before us that television stations licensed to Tampa, St. Petersburg, Clearwater and Lakeland do compete for programming, audience and advertisers in the proposed combined market area, and that sufficient evidence has been presented to demonstrate commonality between the proposed community to be added to the market designation and the market as a whole. In addition, no oppositions to the proposed rehyphenation have been filed.

8. We note that the issue raised by the petitioner regarding WTMV's copyright license liability has largely been resolved with the passage of the Satellite Home Viewer Act of 1994, which amended Section 111(f) of title 17, United States Code. Under this Act, a station located within the same ADI as a cable system is no longer considered a ''distant signal'' on that system for purposes of compulsory copyright license liability and, therefore, is not subject to the additional copyright fees attendant to ''distant signal'' carriage within the market. Applying the Act to the facts of this proceeding, WTMV would not be considered a ''distant signal'' if carried on cable systems located in the Tampa-St. Petersburg ADI and, therefore, would not face additional copyright fees relative to other stations located within the same ADI. Nevertheless, we find that the equalization of the regulatory status of WTMV with stations in Tampa St. Petersburg and Clearwater through the inclusion of Lakeland as a named community in the market is warranted given that WTMV competes with these stations for programming, audience and advertisers. Such a rationalization of the competitive situation appears to be the public benefit which congress anticipated by instructing the Commission, in Section 614(f) of the Cable Television Consumer Protection and Competition Act of 1992, to make necessary revisions to update the market list.

9. This proceeding is not intended to address the specific mandatory cable carriage, syndicated exclusivity or network nonduplication obligations of individual cable systems. Redesignation of the market reflects in the rules the general competitive situation that in fact exists in the local area, allowing the application of the more specific rules, including those relating to ''area of dominant influence'' changes, to be addressed from the perspective of a properly defined market area. Accordingly, the proposed rule change will be adopted.

10. Accordingly, it is ordered, that effective June 30, 1995, § 76.51 of the Commission's Rules is amended to include Lakeland, Florida, as follows: Tampa-St. Petersburg-Clearwater-Lakeland, Florida.

11. It is further ordered, that this proceeding IS TERMINATED.

12. This action is taken by the Cable Services Bureau pursuant to authority delegated by § 0.321 of the Commission's rules. 47 CFR 0.321.

List of Subjects in 47 CFR Part 76

Cable television.

Part 76 of Chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

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

2. Section 76.51 is amended by revising paragraph (a)(28) to read as follows:

§ 76.51 Major television markets.

* * * * *

(a) * * *

(28) Tampa-St. Petersburg-Clearwater-Lakeland, Florida

* * * * *

Federal Communications Commission.

William H. Johnson,

Deputy Chief, Cable Services Bureau.

[FR Doc. 95–13213 Filed 5–30–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 673

[Docket No. 950223058–5058–01; I.D. 022395A]

Scallop Fishery off Alaska; Closure of Federal Waters to Protect Scallop Stocks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date; response to comments.

SUMMARY: An emergency interim rule that closed Federal waters off Alaska to fishing for scallops is in effect through May 30, 1995. NMFS extends the emergency rule for an additional 90-day period (through August 28, 1995) to prevent overfishing of scallop stocks in an uncontrolled fishery for scallops in Federal waters by vessels fishing outside Alaska State's regulatory authority to govern the scallop fishery. This emergency closure is intended to control an unregulated scallop fishery in Federal waters until a Federal fishery management plan can be implemented. NMFS also responds to comments submitted on the interim emergency rule as published in the **Federal Register** on March 1, 1995, for comment. No change to the emergency rule was made as a result of NMFS' response to comments.

EFFECTIVE DATE: The interim regulations published on March 1, 1995 (60 FR 11054, as corrected at 60 FR 12825, March 8, 1995) are extended from May 31, 1995, through August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published an emergency interim rule in the **Federal Register** on March 1, 1995 (60 FR 11054) that closed Federal waters off Alaska to fishing for scallops. The closure was intended to prevent unregulated and uncontrolled fishing for scallops in Federal waters during the period of time the North Pacific Fishery Management Council (Council) prepared a Fishery Management Plan for the Scallop Fishery off Alaska (FMP). Although the State of Alaska has implemented regulations to manage the scallop fishery off Alaska, these regulations can be applied by the State only to vessels registered under the laws of the State of Alaska (section 306 (a)(3) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*. (Magnuson Act). Continued fishing for scallops by one or more vessels not registered with the State of Alaska poses significant conservation and management concerns that can be effectively addressed in a timely manner only through emergency closure of Federal waters off Alaska. Further background and descriptive information is contained in the preamble to the emergency rule published in the **Federal Register** March 1, 1995.

The Council has submitted a proposed FMP to the Secretary of Commerce for review and approval. Proposed regulations to implement the FMP were published in the **Federal Register** May 10, 1995 (60 FR 24822). Given the statutory review and implementation schedule for FMPs set out under sections 303 and 304 of the Magnuson Act, the Council requested NMFS to reimplement the emergency closure of Federal waters off Alaska for an additional 90 days as authorized under section 305(c)(3)(B) of the Magnuson Act. NMFS concurs that this period of time is necessary for the preparation and implementation of a Federal management program for scallops in Federal waters and reimplements this emergency rule for the maximum period of time authorized under the Magnuson Act.

Two letters of comments on the emergency rule as published in the **Federal Register** March 1, 1995, were received within the comment period and are summarized in the Response to Comments section, below. After review of the comments received, NMFS determined that no change to the emergency rule is warranted.

This emergency interim rule has been determined to be not significant for purposes of E.O. 12866.

Response to Comments

Two letters of comments were received within the comment period that ended March 10, 1995. A summary of the comments and NMFS' response follows.

Comment 1. NMFS' implementation of the emergency rule was based upon a recommendation from the Council that was contrived at an illegally constituted teleconference meeting in violation of specific procedural requirements set forth in the Magnuson Act, 16 U.S.C. 1852(j).

Response. The Chairman of the North Pacific Fishery Management Council (Council) had very little time to respond to the emergency situation resulting from uncontrolled fishing for scallops off Alaska that precipitated the emergency rule. If necessary, NMFS was prepared to take action to promulgate emergency regulations without Council involvement to address the emergency in as timely manner as possible. The Council's ability to convene an emergency meeting and its recommendation to proceed with the emergency rule simply lent further indication of the widespread support for closure of Federal waters to protect scallop stocks.

Furthermore, NMFS conducted an independent review of the emergency action recommended by the Council. Based on the administrative record, NMFS concurred with the Council's determination that immediate closure of Federal waters off Alaska was necessary to address the scallop management void and to address concerns of localized overfishing of scallop stocks. NMFS followed the appropriate procedures and established the rational basis for the decision to implement the emergency rule. Any alleged procedural irregularities at the Council level did not affect the Agency's independent determination to proceed with this action.

Comment 2. Absolutely no justification exists for issuance of an emergency rule closing Federal waters off Alaska to fishing for scallops given that a single vessel operating outside Alaska State's regulatory authority could not cause overfishing of the scallop resource off Alaska.

Response. NMFS disagrees. Recent participation in the scallop fishery by at least one vessel not registered with the State of Alaska, contemplation by other vessel owners of fishing in Federal

waters outside State regulations governing the scallop fishery, and the possibility uncontrolled fishing for scallops could occur anywhere off Alaska by the highly mobile scallop processor fleet, justified emergency rule action to prevent localized overfishing of scallop stocks. This approach is warranted given the limited information on stock structure and biological productivity of scallops off Alaska, coupled with recent scientific evidence that suggests that scallop resources may consist of multiple, discrete, self-sustaining populations that should be viewed as separate stock units for management. If this is the case, prudent management of these stocks is necessary to prevent localized depletion in order to maintain the integrity of these stocks and protect their long-term productivity.

The single vessel used to participate in the unregulated fishery for scallops that precipitated the emergency rule was fishing in the Prince William Sound (PWS) area, for which the State's guideline harvest level (GHL) was 50,000 lb (22.68 mt) shucked scallop meat. The 1995 harvest amounts of scallops reported by observers on board other vessels fishing in this area under the laws of the State resulted in closure of the area to fishing for scallops on January 26, 1995, when the State's GHL was reached. The single vessel fishing outside the State's regulatory authority did not have an observer on board to monitor catch and continued to fish once the PWS area was closed. When the vessel was boarded by the U.S. Coast Guard almost a month later, the vessel operator informed the Coast Guard that 54,000 lb (24.49 mt) of shucked scallop meat was on board. This amount exceeded Alaska State's GHL for PWS by over 100 percent. Exceeding the GHL by this order of magnitude, combined with the potential for discrete stock structure, creates a very real concern for localized overfishing of scallop stocks that the emergency rule was intended to prevent.

Comment 3. The issuance of the emergency rule was based on political and personal assumptions which were unreasonable and not based on reliable scientific data as required by the Magnuson Act.

Response. NMFS disagrees. See the response to Comment 2. NMFS has acknowledged that information on scallop stock structure, abundance, and population dynamics are limited. However, as stated in the preamble to the emergency rule, reasons exist to manage the Alaska scallop stocks with special caution given evidence that these stocks are susceptible to overfishing. NMFS expects that careful management of this resource will be necessary until more information becomes available to improve understanding of the dynamics of the scallop resource and the effect of exploitation on the biological productivity of scallop stocks off Alaska.

Comment 4. The emergency rule is not consistent with any of the national standards. In particular National Standard 1 is violated given that NMFS has not taken any action to achieve the optimum yield (OY) from the Alaska scallop fishery. Furthermore, NMFS has no idea what the OY for this fishery should be because no scientific data exist upon which to base the OY.

Response. NMFS disagrees. The emergency interim closure of Federal waters to fishing for scallops was intended as a short-term conservation measure to control fishing effort and prevent overfishing of scallop stocks until an alternative management regime may be implemented. The interim closure could be effective for up to a 180-day period. Prevention of overfishing during this interim period would help guarantee achievement of OY from a healthy, productive scallop resource when the fishery is authorized to open under a future management regime. Furthermore, OY would be achieved on a continuing basis, given that Weathervane scallops, the primary commercial species off Alaska, are a long-lived species with a low natural mortality rate. As a result, NMFS believes the scallop harvest foregone during the period Federal waters are closed largely would be available to the fishery once Federal waters are opened to fishing for scallops under a future FMP.

NMFS recognizes that the economic impact of the closure of Federal waters to fishing for scallops will be substantial to participants in the scallop fishery. The State of Alaska has announced that it will open up State waters in its Dutch Harbor and Adak registration areas on July 1 to fishing for scallops, although available fishing grounds are limited and harvest amounts are not expected to be significant. The harvest amounts from these two registration areas in 1993 and 1994 totaled only 40,000 lb and 2,000 lb, respectively. The short-term foregone opportunity to harvest scallops in Federal waters is justified by the need to prevent overfishing of the scallop resource and ensure the long-term productivity of the scallop resource necessary to support the harvest of OY on a continuing basis under a future management regime that authorizes a regulated fishery in Federal waters.

The emergency rule did not specify an OY for the scallop fishery off Alaska and comments on the appropriateness of any OY level for this fishery is outside the scope this action. Nonetheless, the preamble to the proposed rule to implement the FMP (60 FR 24822, May 10, 1995), presents a discussion on an appropriate OY for the scallop fishery in Federal waters off Alaska. The preamble also discusses the consistency of an interim closure of these waters to fishing for scallops with the national standards.

Although scientific data are limited, no evidence suggests that an unregulated and uncontrolled harvest of scallops off Alaska is supportable as a means of achieving OY. The Council is scheduled to consider alternative options for an OY for the scallop fishery off Alaska at its June 1995 meeting, as well as a suite of other management measures under consideration by the Council for a Federally managed fishery.

Comment 5. The emergency rule meets none of the criteria for emergency rulemaking set out in NMFS policy guidelines, which define an emergency situation as one that (1) results from unforeseen events; (2) presents serious conservation and management problems; and (3) can be addressed through emergency regulations for immediate benefits outweigh the value of advance notice, public comment and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process. Furthermore, these guidelines preclude NMFS from using emergency rulemaking to close a fishery if the action is controversial and has serious economic effects.

Response. NMFS disagrees. NMFS policy guidelines for emergency rulemaking published in the **Federal Register** January 6, 1992 (57 FR 375), would authorize controversial emergency action with serious economic effects under certain circumstances. NMFS believes that the events and overfishing concerns leading up to the emergency interim closure of Federal waters to fishing for scallops are such circumstances that warranted emergency rulemaking.

Although the potential always existed for one or more vessels to fish for scallops in Federal waters outside Alaska State's regulatory authority, no vessel had ever done so. Neither NMFS nor the Council anticipated this activity when it occurred, nor the conservation concerns that ensued from uncontrolled and unregulated fishing for scallops in Federal waters. Although closure of Federal waters to fishing for scallops

poses substantial costs to current participants in this fishery, these costs are justified to prevent localized overfishing of scallop stocks and protect the long-term productivity of the Alaska scallop resource. NMFS believes that the time it would have taken to complete notice-and-comment rulemaking would have jeopardized severely NMFS' ability to take action to prevent overfishing of scallop stocks.

Comment 6. The emergency interim rule should be rescinded as an illegal action. No scientific evidence exists that can prove overfishing concerns are warranted and the vessel fishing in Federal waters outside Alaska State laws and regulations had a Federal scallop permit and was fishing legally.

Response. NMFS disagrees that the emergency interim rule was an illegal action. Rather, this action was justified to prevent overfishing of scallop stocks and protect the long-term productivity of this resource. NMFS concurs that fishing for scallops in Federal waters outside the laws and regulations of the State of Alaska did not, in itself, constitute illegal activity. Prior to the emergency rule, however, no Federal regulations existed to control fishing for scallops in Federal waters. NMFS believes that unregulated fishing, including the potential for other vessels joining an uncontrolled fishery, poses a serious overfishing concern (see responses to comments 2 and 3). NMFS does not claim that it has ''proved'' overfishing is occurring in this fishery; rather, the emergency rule is an attempt to prevent such a problem from occurring while long-term management measures are being developed. Finally, the vessel used to fish for scallops in Federal waters outside Alaska State's regulatory authority was not issued a Federal permit to fishing for scallops off Alaska. The fact that the vessel may have been issued a Federal permit to fish for scallops in Federal waters elsewhere off the continental United States is immaterial to the legality of the closure of Federal waters off Alaska.

Comment 7. Under section 306(a)(3) of the Magnuson Act, NMFS should not rely on the Alaska State scallop management program as a basis for managing the fishery in Federal waters.

Response. Any future Federal management program for the scallop fishery of Alaska would consider State management measures for the scallop fishery and the justification for those measures. However, neither the Council nor NMFS would automatically incorporate State management measures into Federal regulations without adequate assessment and justification. Such measures must be consistent with the national standards set out in the Magnuson Act and other applicable law.

Dated: May 24, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–13262 Filed 5–25–95; 4:30 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 104
Wednesday, May 31, 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 DEFENSE

Office of the Secretary

[DoD Instruction 1342.12]

32 CFR Part 57

Provision of Early Intervention and Special Education Services to Eligible DoD Dependents in Overseas Areas

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: Prior to 1991, the Department of Defense Dependents Schools (DoDDS) was required by ''Defense Dependents' Education Act of 1978,'' as amended, to adhere to the provisions of the ''Education of All Handicapped Children Act. With the enactment of ''Individuals With Disabilities Education Act Amendment of 1991,'' the Department of Defense was required to modify the Department's existing special education program for children with disabilities, ages 3 through 21, and to provide early intervention services to children birth through 2 years. The provision of early intervention services will be phased in, with all services in place by the beginning of school year 1995–96. This proposed rule includes the following revisions: Assigns responsibility for the implementation of the rule to the Under Secretary for Personnel and Readiness, reflecting a reorganization of the Department of Defense; requires the Department of Defense to provide early intervention services to children with disabilities from birth through 2 years of age, effective at the start of school year 1995–96; requires the Department of Defense Dependents Schools (DoDDS) to extend special education services to students from 3 through 21 years of age rather than from 5 through 21 years of age; expands the categories of disability to include both autism and traumatic brain injury; expands special education services to include both assistive technology and transition; expands the role of the DoD Coordinating Committee to include early intervention as well as special education and related services; establishes a DoD Inter-Component Coordinating Council on Early Intervention; expands the enclosure on definitions to include terminology not contained in the original rule; and transfers the administrative responsibility for conducting hearings pursuant to this rule to the Defense Office of Hearings and Appeals.

DATES: Comments must be postmarked by July 31, 1995.

ADDRESSES: Forward comments to the Department of Defense Dependents Schools, 4040 North Fairfax Drive, Arlington, VA 22203–1635.

FOR FURTHER INFORMATION CONTACT:

Dr. Rebecca Posante, (703) 696–4493.

SUPPLEMENTARY INFORMATION: It is necessary to revise 32 CFR Part 57 to reflect updated policy, responsibilities, and procedures of early intervention and special education services to eligible DoD Dependents overseas.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that this proposed rule will not, if issued as a final rule, be significant as defined by Executive Order 12866.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that this proposed rule will not, if issued as a final rule, have a significant economic impact on substantial numbers of small entities because it affects only eligible DoD dependents in overseas areas.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 44)

It has been certified that this proposed rule will not, if issued as a final rule, impose any reporting or recordkeeping requirements under the Paperwork Reducation Act of 1980.

List of Subjects in 32 CFR Part 57

Education of individuals with disabilities, Elementary and secondary education, Government employees, Military personnel.

Accordingly, 32 CFR part 57 is revised to read as follows:

PART 57—PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES TO ELIGIBLE DOD DEPENDENTS IN OVERSEAS AREAS

Sec.
57.1 Purpose.
57.2 Applicability and scope.
57.3 Definitions.
57.4 Policy.
57.5 Responsibilities.
57.6 Procedures.

Appendix A to Part 57—Procedures for the Provision of Early Intervention Services for Infants and Toddlers With Disabilities and their Families

Appendix B to Part 57—Procedures for Educational Programs and Services for Children With Disabilities, Aged 3 to 21, Inclusive

Appendix C to Part 57—The National Advisory Panel (NAP) on the Education of Dependents With Disabilities

Appendix D to Part 57—DoD Coordinating Committee on Early Intervention, Special Education, and Medically Related Services

Appendix E to Part 57—DoD Inter-Component Coordinating Council (ICC) on Early Intervention

Appendix F to Part 57—Mediation and Hearing Procedures

Authority: 20 U.S.C. 921 and 1400.

§ 57.1 Purpose.

This part:

(a) Implements policy and updates responsibilities and procedures under 20 U.S.C. 921–932, 20 U.S.C. 1400 *et seq.*, 32 CFR part 347, and 32 CFR part 71 for providing the following:

(1) A free appropriate public education (FAPE) for children with disabilities who are eligible to enroll in the Department of Defense Dependents Schools (DoDDS).

(2) Early intervention services for infants and toddlers birth through age 2 years who, but for their age, would be eligible to enroll in the DoDDS under 32 CFR part 71.

(3) A comprehensive and multidisciplinary program of early intervention services for infants and toddlers with disabilities and their families.

(b) Establishes a National Advisory Panel (NAP) on Education for Children with Disabilities, aged 3 to 21, inclusive, and a DoD Inter-Component Coordinating Council (ICC) on Early

Intervention, in accordance with DoD Directive 5105.4.[1]

(c) Establishes a DoD Coordinating Committee (DoD-CC) on Early Intervention, Special Education, and Medically Related Services (MRS).

(d) Authorizes implementation instructions consistent with DoD 5025.1–M,[2] and DoD forms consistent with DoD 8320.1–M,[3] DoD 8910.1–M,[4] and DoD Instruction 7750.7.[5]

§ 57.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as ''the DoD Components'').

(b) Does not apply to schools operated by the Department of Defense in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianna Islands, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Islands).

(c) Applies to infants, toddlers, and children receiving or entitled to receive early intervention services or special educational instruction and related services from the Department of Defense, and their parents.

§ 57.3 Definitions.

Asessment. Techniques, procedures, and/or instruments used to measure the individual components of an evaluation.

Assistive technology device. Any item, piece of equipment, or product system that is used to increase, maintain, or improve functional capabilities of children with disabilities.

Assistive technology service. Any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. That term includes the following:

(1) The evaluation of the needs of an individual with a disability, including a functional evaluation in the individual's customary environment.

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities.

(3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices.

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing educational and rehabilitative plans and programs.

(5) Training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities.

(6) Training or technical assistance for professionals (including individuals providing educational rehabilitative services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of an individual with a disability.

Audiology. A service that includes the following:

(1) Identification of children with auditory impairments.

(2) Determination of the range, nature, and degree of hearing loss, and communication functions including referral for medical or other professional attention for the habilitation of hearing.

(3) Provision of habilitative activities, such as language habilitation, auditory training, speech-reading (lip-reading), hearing evaluation, and speech conservation.

(4) Creation and administration of programs for the prevention of hearing loss.

(5) Counseling and guidance of pupils for the prevention of hearing loss.

(6) Determination of the child's need for group and individual amplification, selecting and fitting an aid, and evaluating the effectiveness of amplification.

Autism. A developmental disability significantly affecting verbal and nonverbal communication and social interaction generally evident before age 3 that adversely affects educational performance. That term does not include a child with characteristics of the disability termed ''serious emotional disturbance.''

Case study committee (CSC). A school-level team comprised of, among others, the principal, other educators, parents, and MRS providers who do the following:

(1) Oversee screening and referral of children who may require special education.

(2) Oversee the multidisciplinary evaluation of such children.

(3) Determine the eligibility of the student for special education and related services.

(4) Formulate an individualized education curriculum reflected in an Individualized Education Program (IEP), in accordance with this part.

(5) Monitor the development, review, and revision of IEPs. In addition to the required members of the CSC, other membership will vary depending on the purpose of the meeting. A regional CSC, appointed by the DoDDS regional director, acts in the absence of a school CSC. Members of a regional CSC may be assigned to augment a school CSC. The regional CSC must have at least two members in addition to the parent. One of the DoDDS members must have the authority to commit DoDDS resources; one shall be qualified to provide, or supervise the provision of special education. Other members may be selected from the following groups:

(i) DoDDS regular education personnel.

(ii) DoDDS special education personnel.

(iii) MRS personnel.

Child-find. The ongoing process used by the DoDDS, the Military Departments, and the other DoD Components to seek and identify children from birth to age 21, inclusive, who may require early intervention services or special education and related services. Child-find activities include the dissemination of information to the public, the identification and screening of children, and the use of referral procedures.

Children with disabilities (aged 3 to 21, inclusive). Children, before graduation from high school or completion of the General Education Degree, who have one or more impairments, as determined by a CSC and who need special education and related services.

Consent. That term means the following:

(1) The parent is fully informed of all information about the activity for which consent is sought in the native language or in another mode of communication.

(2) The parent understands and agrees in writing to the implementation of the activity for which permission is sought. That consent describes the activity, lists the child's records (if any) to be released outside the Department of Defense, and specifies to whom the records shall be sent. The signed consent acknowledges the parent's understanding that the parental consent is voluntary and may be revoked at any time.

Counseling service. A service provided by a qualified social worker, psychologist, guidance counselor, or other qualified personnel.

Deaf-blindness. Concomitant hearing and visual impairments. That disability caused such severe communication, developmental, and educational

[1] Copies may be obtained, at cost, from the National Technical Information Service 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to § 57.1(b).

[3] See footnote 1 to § 57.1(b).

[4] See footnote 1 to § 57.1(b).

[5] See footnote 1 to § 57.1(b).

problems that it cannot be accommodated in special education programs solely for children with deafness or blindness.

Deafness. A severe hearing loss or deficit that impairs a child's ability to process linguistic information through hearing, with or without amplification, and affects the educational performance adversely.

Developmental delay. That terms means the following:

(1) A significant discrepancy in the actual functioning of an infant; toddler; or child, birth through age 5, when compared with the functioning of a nondisabled infant, toddler, or child of the same chronological age in any of the following areas: physical, cognitive, communication, social or emotional, and adaptive development as measured using standardized evaluation instruments and confirmed by clinical observation and judgment.

2. *High probability for developmental delay.* An infant or toddler, birth through age 2, with a diagnosed physical or mental condition, such as chromosomal disorders and genetic syndromes, that places the infant or toddler at substantial risk of evidencing a developmental delay without the benefit of early intervention services.

Early identification. The implementation of a formal plan for identifying a disability as early as possible in a child's life.

Early intervention services.

(1) Developmental services that meet the following criteria:

(i) Are provided under the supervision of a military medical department.

(ii) Are provided using Military Health Services System resources at no cost to the parents. Parents may be charged in those instances where Federal law provides for a system of payments by families including a schedule of sliding fees, if any, (and incidental fees; identified in Service guidance) that are normally charged to infants, toddlers, and children without disabilities or to their parents.

(iii) Are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

(A) Physical.

(B) Cognitive.

(C) Communication.

(D) Social or emotional.

(E) Adaptive development.

(iv) Meet the standards developed or adopted by the Department of Defense.

(v) Are provided by qualified personnel including early childhood special educators, speech and language pathologists and audiologists, occupational therapists, physical therapists, psychologists, social workers, nurses, nutritionists, family therapists, orientation and mobility specialists, and pediatricians and other physicians.

(vi) Maximally, are provided in natural environments including the home and community settings where infants and toddlers without disabilities participate.

(vii) Are provided in conformity with an Individualized Family Service Plan (IFSP).

(2) Developmental services include, but are not limited to, the following services: family training, counseling, and home visits; special instruction; speech pathology and audiology; occupational therapy; physical therapy; psychological services; service coordination services; medical services only for diagnostic or evaluation purposes; early identification, screening and assessment services; vision services; and social work services. Also included are assistive technology devices and assistive technology services; health services necessary to enable the infant or toddler to benefit from the above early intervention services; and transportation and related costs necessary to enable an infant or toddler and the family to receive early intervention services.

Eligible. That term refers to children who meet the age, command sponsorship, and dependency requirements established by the DDEA, as amended, 20 U.S.C. § 921 *et seq.*, and 32 CFR part 71. When those conditions are met, children without disabilities, aged 5 to 21, and children with disabilities, aged 3 to 21, inclusive, are authorized to receive educational instruction from the DoDDS. Additionally, an eligible infant or toddler with disabilities is a child from birth through age 2 years who meets all of the DoDDS eligibility requirements except for the age requirement. In school year 1994–95, multi-disciplinary assessments, IFSPs, and case management services shall be required and beginning in school year 1995–96, an eligible infant or toddler is entitled to receive early intervention services, in accordance with 20 U.S.C., § 1400 *et seq.*

Evaluation. The synthesis of assessment information by a multi-disciplinary team used to determine whether a particular child has a disability, the nature and extent of the disability, and the child's eligibility to receive early intervention or special education and/or related services.

Family training, counseling and home visits. Services provided by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler eligible for early intervention services. Those services assist a family in understanding the special needs of the child and enhancing the child's development.

Free appropriate public education (FAPE). Special education and related services that:

(1) Are provided at no cost to parents of a child with a disability, and are under the general supervision and direction of the DoDDS.

(2) Are provided in the least restrictive environment at a preschool, elementary, or secondary school.

(3) Are provided in conformity with an IEP.

(4) Meet the requirements of this part.

Functional vocational evaluation. A student-centered appraisal process for vocational development and career decision-making. It allows students, educators, and others to gather information about such development and decision making, Functional vocational evaluation activities are directly related to transitional, vocational, and career planning; instructional goals; objectives; and implementation.

Health services. Services necessary to enable an infant or toddler to benefit from the other early intervention services being received under this part. That term includes the following:

(1) Services such as clean intermittent catheterization, tracheotomy care, tube feeding, changing of dressings or colostomy collection bags, and other health services.

(2) Consultation by physicians with other service providers about the special healthcare needs of infants and toddlers with disabilities that shall need to be addressed in the course of providing other early intervention services.

(3) That term does not include the following:

(i) Services that are surgical in nature or solely medical.

(ii) Devices necessary to control or treat a medical condition.

(iii) Medical or health services routinely recommended for all infants or toddlers.

Hearing impairment. An impairment in hearing, whether permanent or fluctuating, which adversely affects a child's educational performance, but is not included under deafness.

Independent evaluation. An evaluation conducted by a qualified examiner who is not employed by the DoDDS.

Individualized education program (IEP). A written document defining specially designed instruction for a

student with a disability, aged 3 to 21, inclusive. That document is developed and implemented, in accordance with this part.

Individualized family service plan (IFSP). A written document for an infant or toddler, ages birth through 2, with a disability and the family of such infant or toddler that is based on a multidisciplinary assessment of the unique needs of the child and concerns and priorities of the family, and identifies the early intervention and other services appropriate to meet such needs, concerns, and priorities.

Infants and toddlers with disabilities. Children, age birth through 2, who need early intervention services because they:

(1) Are experiencing a developmental delay; or

(2) Have a diagnosed physical or mental condition that has high probability of resulting in a developmental delay.

Inter-component. Cooperation among DoD organizations and programs, ensuring coordination and integration of services to infants, toddlers, children with disabilities and to their families.

Medically related services.

(1) Medical services (as defined in definition ''Medical services'') are those services provided under professional medical supervision, which are required by a CSC to determine a student's eligibility for special education and, if the student is eligible, the special education and related services required by the student under this part.

(2) Direct or indirect services pursuant to the development or implementation of an IEP necessary for the student to benefit from the educational curriculum. Those services may include: medical services for diagnostic or evaluative purpose, social work, community health nursing, dietary, occupational therapy, physical therapy, audiology, ophthalmology, and psychological testing and therapy.

Medical services. Those evaluative, diagnostic, therapeutic, and supervisory services provided by a licensed and/or credentialed physician to assist CSCs and to implement IEPs. Medical services include diagnosis, evaluation, and medical supervision of related services that, by statute, regulation, or professional tradition, are the responsibility of a licensed and credentialed physician.

Meetings. All parties attending a meeting to determine eligibility or placement of a child shall appear personally at the meeting site on issuance of written notice and establishment of a date convenient to the concerned parties. When a necessary participant is unable to attend, electronic communication suitable to the occasion may be used to involve the unavailable party. Parents generally shall be responsible for the cost of travel to personally attend meetings bout the eligibility or placement of their child.

Mental retardation. Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior. That disability is manifested during the developmental period and adversely affects a child's educational performance.

Multidisciplinary. The involvement of two or more disciplines or professions in the integration and coordination of services, including evaluation and assessment activities, and development of an IFSP or an IEP.

Native language. When used with reference to an individual of limited English proficiency, the home language normally used by such individuals, or in the case of a child, the language normally used by the parent of the child.

Natural environments. Settings that are natural or normal (e.g., home, day care setting) for the infant, toddler, or child's same-age peers who have no disability.

Non-DoDDS placement. An assignment by the DoDDS of a child with a disability to a non-DoDDS school or facility.

Non-DoDDS school or facility. A public or private school or other institution not operated by the DoDDS.

Nutrition services. Those services to infants and toddlers include the following:

(1) Conducting individual assessments in nutritional history and dietary intake; anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and food habits and food preferences.

(2) Developing and monitoring plans to address the nutritional needs of infants and toddlers eligible for early intervention services.

(3) Making referrals to community resources to carry out nutrition goals.

Occupational therapy. That term includes services to address the functional needs of children (birth to age 21, inclusive) related to adaptive development, adaptive behavior and play; and sensory, motor, and postural development. Those services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include the following:

(1) Identification, assessment, and intervention.

(2) Adaptation of the environment and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills.

(3) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

Orthopedic impairment. A severe physical impairment that adversely affects a child's educational performance. That term includes congenital impairments such as club foot and absence of some member; impairments caused by disease, such as poliomyelitis and bone tuberculosis; and impairments from other causes such as cerebral palsy, amputations, and fractures or burns causing contractures.

Other health impairment. Limited strength, vitality, or alertness due to chronic or acute health problems that adversely affect a child's educational performance. Such impairments include heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, seizure disorder, lead poisoning, leukemia, diabetes, or attention deficit disorder.

Parent. The biological father or mother of a child; a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; the legal guardian of a child; or a person in whose household a child resides, provided that such person stands in loco parentis to that child and contributes at least one-half of the child's support.

Parent counseling and training. A service to assist parents in understanding the special needs of their child's development and by providing them with information on child development and special education.

Personally identifiable information. Information that would make it possible to identify the infant, toddler, or child with reasonable certainty. Examples include name, parent's or guardian's name, address, social security number, or a list of personal characteristics.

Physical therapy. That term includes services to children (birth to age 21, inclusive) to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. Those services include the following:

(1) Screening, evaluation, and assessment to identify movement dysfunction.

(2) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement

dysfunction and related functional problems.

(3) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

Primary referral source. Parents and the DoD Components, including child development centers, pediatric clinics, and newborn nurseries, that suspect an infant or toddler has a disability and brings the child to the attention of the EIP.

Psychological services. A service that includes the following:

(1) Administering psychological and educational tests and other assessment procedures.

(2) Interpreting test and assessment results.

(3) Obtaining, integrating, and interpreting information about a child's behavior and conditions relating to the learning.

(4) Consulting with other staff members, including service providers, to plan programs to meet the special needs of children, as indicated by psychological tests, interviews, and behavioral evaluations.

(5) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

Public awareness program. Activities or print materials focusing on early identification of infants and toddlers with disabilities. Materials may include information prepared and disseminated by a military medical department to all primary referral sources and information for parents on the availability of early intervention services. Procedures to determine the availability of information on early intervention services to parents are also included in that program.

Qualified. A person who meets the DoD-approved or recognized certification, licensing, or registration requirements or other comparable requirements in the area in which the person provides special education or related services or early intervention services to an infant, toddler, or child with a disability.

Recreation. A related service that includes the following:

(1) Assessment of leisure activities.

(2) Therapeutic recreational activities.

(3) Recreational programs in schools and community agencies.

(4) Leisure education.

Regional director. The Director of a DoDDS region, or designee.

Rehabilitation counseling. Services provided by a rehabilitation counselor or other qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of the student with a disability.

Related services. Transportation and such developmental, corrective, and other supportive services as required to assist a child, aged 3 to 21, inclusive, with a disability to benefit from special education under the child's IEP. That term includes: speech therapy and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluative purposes. The term also includes: rehabilitation counseling services, school health services, social work services in schools, and parent counseling. The sources for those services are school, community, and medical treatment facilities (MTFs).

School health services. Services provided by a qualified school nurse or other qualified person.

Separate facility. A school or a portion of a school, regardless of whether it is operated by the DoDDS, attended exclusively by children with disabilities.

Serious emotional disturbance. A condition confirmed by clinical evaluation and diagnosis and that, over a long period of time and to a marked degree, adversely affects educational performance, and exhibits one or more of the following characteristics:

(1) Inability to learn that cannot be explained by intellectual, sensory, or health factors.

(2) Inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(3) Inappropriate types of behavior under normal circumstances.

(4) A tendency to develop physical symptoms or fears associated with personal or school problems.

(5) A general pervasive mood of unhappiness or depression. Includes children who are schizophrenic, but does not include children who are socially maladjusted unless it is determined they are seriously emotionally disturbed.

Service coordination. Activities of a service coordinator to assist and enable an infant or toddler and the family to receive the rights, procedural safeguards, and services that are authorized to be provided under the DoD EIP. Those activities include the following: coordinating the performance of evaluations and assessments; assisting families to identify their resources, concerns, and priorities; facilitating and participating in the development, review, and evaluation of IFSPs; assisting in identifying available service providers; coordinating and monitoring the delivery of available services; informing the family of support or advocacy services; coordinating with medical and health providers and facilitating the development of a transition plan to preschool services.

Service provider. Any individual who provides services listed in an IEP or an IFSP.

Social work services in schools. A service that includes the following:

(1) Preparing a social or developmental history on an child with a disability.

(2) Counseling a child and the family on a group or individual basis.

(3) Working with those problems in a child's home, school, or community that adversely affect adjustment in school.

(4) Using school and community resources to enable a child to receive maximum benefit from the educational program.

Special education. Instruction and related services for which a child, aged 3 to 21, inclusive, becomes entitled when a CSC determines a child's educational performance is adversely affected by one or more disabling conditions.

(1) Special education is specially designed instruction, including physical education, which is provided at no cost to the parent or guardians to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings.

(2) That term includes speech therapy or any other related service if the service consists of specially designated instruction, at no cost to the parents, to meet the unique needs of a child with a disability.

(3) The term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.

(4) *At no cost.* With regard to a child eligible to attend the DoDDS without paying tuition, specially designed instruction and related services are provided without charge. Incidental fees normally charged to nondisabled students or their parents as a part of the regular educational program may be imposed.

(5) *Physical education.* The development of the following:

(i) Physical and motor fitness.

(ii) Fundamental motor skills and patterns.

(iii) Skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports.

(iv) A program that includes special physical education, adapted physical education, movement education, and motor development.

(6) *Vocational education.* Organized educational programs for the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

Special instruction. That term includes the following:

(1) The design of learning environments and activities to promote acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction.

(2) Curriculum planning, including the planned interaction of personnel, materials, time, and space, that leads to achieving the outcomes in an IEP or an IFSP.

(3) Providing families with information, skills, and support to enhance skill development.

(4) Working with a child to enhance development and cognitive processes.

Specific learning impairment. A disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language that may manifest itself as an imperfect ability to listen, think, speak, read, write, spell, remember, or do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term, commonly called, ''specific learning disability,'' does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; mental retardation; emotional disturbance; or environmental, cultural, or economic differences.

Speech and language impairments. A communication disorder, such as stuttering, impaired articulation, voice impairment, or a disorder in the receptive or expressive areas of language that adversely affects a child's educational performance.

Speech therapy. That related service includes the following:

(1) Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills.

(2) Diagnosis and appraisal of specific speech or language impairments.

(3) Referral for medical or other professional attention to correct or habilitate speech or language impairments.

(4) Provision of speech and language services for the correction, habilitation, and prevention of communicative impairments.

(5) Counseling and guidance of children, parents, and teachers for speech and language impairments.

Transition services. That term means the following:

(1) A coordinated set of activities for a student that may be required to promote movement from early intervention, pre-school, and other educational programs into different educational settings or programs.

(2) For students 14 years of age and older, transition services are designed in an outcome-oriented process which promotes movement from school to post-school activities; including, post-secondary education, vocational training, integrated employment; and including supported employment, continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student's needs, considering the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and acquisition of daily living skills and functional vocational evaluation.

Transportation. A service that includes the following:

(1) Services rendered under the IEP of a child with a disability:

(i) Travel to and from school and between schools, including travel necessary to permit participation in educational and recreational activities and related services.

(ii) Travel in and around school buildings.

(iii) Specialized equipment, including special or adapted buses, lifts, and ramps, if required to provide transportation for a child with a disability.

(2) Transportation and related costs for early intervention services includes the cost of travel (e.g., mileage or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable an eligible child and the family to receive early intervention services.

Traumatic brain injury. An acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment that adversely affects educational performance. That term includes upon or closed head injuries resulting in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical function, information processing, and speech. That term does not include brain injuries that are congenital or degenerative, or brain injuries that are induced by birth trauma.

Vision services. Services necessary to habilitate or rehabilitate the effects of sensory impairment resulting from a loss of vision.

Visual impairment. An impairment of vision that, even with correction, adversely affects a child's educational performance. That term includes both partially seeing and blind children.

§ 57.4 Policy.

It is DoD policy that:

(a) Eligible infants and toddlers with disabilities and their families shall be entitled to receive early intervention services consistent with Appendix A to this part.

(b) Eligible children with disabilities, aged 3 to 21, inclusive, shall be provided a FAPE in the least restrictive environment, consistent with Appendix B to this part.

(c) Parents of eligible infants, toddlers, and children with disabilities from birth to age 21, inclusive, shall be full participants in early intervention and special education services.

§ 57.5 Responsibilities.

(a) The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

(1) Establish a NAP consistent with Appendix C to this part.

(2) Establish and chair, or designate a ''Chair'', of the DoD–CC on Early Intervention, Special Education, and MRS consistent with Appendix D to this part.

(3) Establish and chair, or designate a ''Chair'', of the DoD Inter-Component Coordinating Council (ICC) on Early Intervention consistent with Appendix E to this part.

(4) Ensure compliance with this part in the provision of early intervention services, special education, and related services through the DoD–CC in accordance with DoD Instruction

1342.14[6] and other appropriate guidances.

(b) The USD(P&R), in consultation with the General Counsel of the Department of Defense (GC, DoD) and the Secretaries of the Military Departments, shall:

(1) Ensure that eligible infants and toddlers with disabilities and their families are provided early intervention services under IDEA, 20 U.S.C. 921 *et seq.*, and 20 U.S.C. 1400 *et seq.*

(2) Ensure the coordination of early intervention, special education, and related services.

(3) Ensure the development of a DoD-wide comprehensive child-find system to identify eligible infants, toddlers, and children age birth to age 21, inclusive, under 20 U.S.C. 921 and 1400 who may require early intervention or special education services.

(4) Ensure that DoD personnel are trained to provide the mediation services specified in Appendix F to this part.

(5) Ensure that transition services are available to promote movement from early intervention, preschool, and other educational programs into different educational settings and postsecondary environments.

(6) Ensure that DoD personnel who provide services (e.g., child care, medical care, and recreation) to infants and toddlers and their families are participants in a comprehensive inter-Component system for early intervention services.

(7) Assign functions and geographic regions of responsibility to the Military Departments for providing MRS and early intervention services.

(8) Ensure that the Military Departments deliver the following:

(i) A comprehensive, coordinated and multidisciplinary program of early intervention services for eligible infants and toddlers with disabilities.

(ii) MRS for eligible children with disabilities, age 3 to 21, inclusive.

(9) Ensure that qualified personnel participate in providing transition services for eligible infants, toddlers, and children with disabilities from birth to age 21, inclusive.

(10) Ensure the development and implementation of a comprehensive system of personnel development for the DoDDS and the Military Departments. That system shall include professionals, paraprofessionals, and primary referral source personnel in the areas of early intervention, special education, and MRS. That system may include the following:

(i) Implementing innovative strategies and activities for the recruitment and retention of providers of early intervention services, special education, and MRS.

(ii) Ensuring that personnel requirements are established consistent with recognized certification, licensing, registration, or other comparable requirements for personnel providing early intervention services, special education, or MRS.

(iii) Ensuring that training is provided in and across disciplines.

(iv) Training providers of early intervention services, special education, and MRS to work overseas.

(11) Develop procedures to compile data on the numbers of eligible infants and toddlers with disabilities and their families in need of early intervention services in accordance with 32 CFR parts 285 and 310. Those data elements shall include the following:

(i) The number of infants and toddlers and their families served.

(ii) The types of services provided.

(iii) Other information required to evaluate the implementation of early intervention programs (EIPs).

(12) Resolve disputes in the DoD Components arising under Appendix A to this part.

(c) The Secretaries of the military departments shall:

(1) Provide MRS for eligible children with disabilities, aged 3 to 21, inclusive.

(2) Plan, develop, and implement a comprehensive, coordinated, intra-Component, and community-based system of early intervention services for eligible infants and toddlers with disabilities and their families.

(3) Design and implement activities to ensure compliance through technical assistance and program evaluation for early intervention and MRS.

(d) The Director, Department of Defense Education Activity (DoDEA), shall ensure that the Director DoDDS, does the following:

(1) Ensures that eligible children with disabilities, aged 3 to 21, inclusive, are provided a FAPE.

(2) Ensures that the educational needs of children with and without disabilities are met comparably, consistent with Appendix B to this part.

(3) Ensures that educational facilities and services operated by the DoDDS for children with and without disabilities are comparable.

(4) Maintains records on special education and related services provided to eligible children with disabilities, aged 3 to 21, inclusive, consistent with 32 CFR part 310.

(5) Provides any or all special education and related services required by a child with a disability, aged 3 to 21, inclusive, other than those furnished by the Secretaries of the Military Departments. The Director, DoDDS, may act through inter-agency, intra-agency, and inter-service arrangements, or through contracts with private parties when funds are authorized and appropriated.

(6) Participates in the development and implementation of a comprehensive system of personnel development.

(7) Undertakes activities to ensure compliance by the DoDDS with this part through monitoring, technical assistance, and program evaluation of special education and those related services provided by the DoDDS.

(e) The Director, Defense Office of Hearings and Appeals (DOHA) shall ensure impartial due process hearings are provided consistent with Appendix F to this part.

§ 57.6 Procedures.

(a) The procedures for early intervention services for infants and toddlers with disabilities and their families are prescribed in Appendix A to this part.

(b) The procedures for educational programs and services for children with disabilities, aged 3 to 21, inclusive, are prescribed in Appendix B to this part.

(c) The procedures for conducting hearings are prescribed in Appendix F to this part.

Appendix A to Part 57—Procedures for the Provision of Early Intervention Services for Infants and Toddlers With Disabilities and Their Families

A. Requirements for an Early Intervention Program (EIP)

(1) All eligible infants and toddlers with disabilities from birth through age 2 and their families shall receive early intervention services, as follows:

a. In school years 1991 through 1994, the Department of Defense planned and continues to develop a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among DoD entities involved in providing such services.

b. In school year 1994 through 1995, the Department of Defense shall implement the following program components described in paragraph A.1.a., of this Appendix:

(1) Multidisciplinary assessments.

(2) IFSPs.

(3) Service coordination.

C. In school year 1995 through 1996, the Department of Defense will implement the program described in paragraph A.1.a. of this Appendix.

2. Early intervention services shall be provided in the natural environment.

[6] See footnote 1 to § 57.1(b).

3. Parents of infants and toddlers with disabilities are to be full and meaningful participants in the EIP.

B. Military Department Responsibilities

Each Military Department shall develop and implement in its assigned geographic area a system to provide for the following:

1. A comprehensive Child-Find procedure coordinated with the DoDDS Child-Find system and primary referral sources such as the child development center and the pediatric clinic.
2. Administration and supervision of EIPs and services.
3. Identification of available resources and coordination with those resource providers, including the DoD Components, who routinely provide services to infants and toddlers without disabilities and their families.
4. Procedures to provide timely services for infants and toddlers with disabilities and their families.
5. Procedures to resolve inter-Component disputes regarding the delivery of early intervention services.
6. Procedures to collect and report data reflecting the number of infants and toddlers and their families served, the types of services provided, and other information required by the USD(P&R) implementation of early intervention services.
7. Multidisciplinary, comprehensive, and functional assessment of the unique strengths and needs of infants or toddlers and the identification of services to meet those needs.
8. Procedures for a family-directed assessment to determine resources, priorities, and concerns of a family and to identify services necessary to enhance a family's capacity to meet the child's needs.
9. An IFSP that details the early intervention services and the coordination of those services.
10. A public awareness program focusing on early identification of infants and toddlers with disabilities.
11. A central directory that includes a description of the early intervention services and other relevant resources available in each military community overseas.
12. Information to parents about their EIP procedural safeguards.
13. Establishment of ICCs at appropriate levels. Memberships shall include parents and the DoD Components who are involved in the delivery of early intervention services.
14. Policies and procedures for the establishment and maintenance of standards to ensure that personnel necessary to carry out the EIP are prepared and trained.

C. Eligibility

Infants and toddlers with disabilities from birth through age 2 are eligible for early intervention services because they meet one of the following criteria:

1. The child is experiencing a developmental delay as measured by diagnostic instruments and procedures of 25 percent (or 2 standard deviations below the mean) in one or more areas, or 20 percent (or 1½ standard deviations below the mean) in two or more of the following areas of development; cognitive, physical, communication, social or emotional, or adaptive.
2. The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; e.g., chromosomal disorders or genetic syndromes.

D. IFSP

1. Each military medical department shall develop and implement procedures to ensure that an IFSP is developed by a multidisciplinary team including the parents of each infant or toddler with a disability who meets the eligibility criteria in section C.1. of this Appendix.
2. Meetings to develop and review the IFSP must include the following participants:
   a. The parent or parents of the child.
   b. Other family members, as requested by the parent, if feasible.
   c. An advocate outside of the family if the parent requests that person's participation.
   d. The EIP services coordinator who has worked with the family since the initial referral of the child or who has been designated as ''responsible for the implementation of the IFSP.''
   e. The person(s) directly involved in conducting the evaluations and assessments.
   f. As appropriate, persons who will provide services to the child or family.
3. if a person listed in section D.2. of this Appendix, is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including the following:
   a. Participating in a telephone conference call.
   b. Having a knowledgeable representative attend the meeting.
   c. Making pertinent records available at the meeting.
4. The IFSP shall be written within a reasonable time after assessment and shall contain the following:
   a. A statement of the child's current developmental levels including physical, cognitive, communication, social or emotional, and adaptive behaviors based on acceptable objective criteria.
   b. A statement of the family's resources, priorities, and concerns relating to enhancing the child's development.
   c. A statement of the major outcomes expected to be achieved for the child and the family. Additionally,the statement shall contain the criteria,procedures,and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modification or revision of the outcomes and services are necessary.
   d. A statement of the specific early intervention services necessary to meet the unique needs of the child and the family including the frequency, intensity, and method of delivering services.
   e. A statement of the natural environments in which early intervention services shall be provided.
   f. The projected dates for initiation of services and the anticipated duration of those services.
   g. The name of the EIP service coordinator.
   h. The steps to be taken supporting the transition of the toddler with a disability to reschool or other services.
5. The IFSP shall be evaluated at least once a year and the family shall be provided an opportunity to review the plan at 6-month intervals (or more frequently, based on the child and family needs).
6. The contents of the IFSP shall be explained to the parents and an informed, written consent from the parents shall be obtained before providing early intervention services described in that plan.
7. With the parent's consent, early intervention services may begin prior to completion of the evaluation and assessment when it has been determined by a multidisciplinary team that a service is needed immediately by the child and/or the child's family. An IFSP must be developed prior to the start of services and the remaining assessments must be completed in a timely manner.
8. If a parent does not provide consent for participation in all early intervention services, the services shall be provided for those interventions to which a parent does give consent.

E. Procedural Safeguards in the EIP

1. Parents of infants and toddlers with disabilities are afforded the following procedural safeguards to ensure that their children receive appropriate early intervention services:

a. Timely administrative resolution of parental complaints, including hearing procedures in Appendix F to this part.

b. The right to confidentiality of personally identifiable information under 32 CFR part 310.

c. The right to written notice and consent to the release of relevant information outside the Department of Defense.

d. The right to determine whether they, their child, or other family members shall accept or decline any early intervention services without jeopardizing the other early intervention services.

e. The opportunity to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the IFSP.

f. The right to prior written notice when the EIP multidisciplinary team proposes, or refuses to initiate or change the identification, evaluation, placement, or provision of early intervention services to the infant or toddler with a disability.

g. The right to prior written notice in their native language, unless it clearly is not feasible to do so, which informs them of all procedural safeguards.

h. During the pendency of any proceeding or action involving a complaint, unless the EIP and the parents otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided, or, if applying for initial services, shall receive the services not in dispute.

2. Parents shall be advised of their rights to due process, as defined in Appendix F to this part.

Appendix B to Part 57—Procedures for Educational Programs and Services for Children With Disabilities, Aged 3 to 21, Inclusive

A. Identification and Screening

It is the responsibility of school officials of the DoDDS to locate, identify, and with the consent of a child's parent, evaluate all children who are eligible to enroll in the DoDDS under 32 CFR part 71 who may require special education and related services.

1. Procedures for Identification and Screening. The DoDDS officials shall conduct the following activities to determine if a child needs special education and related services:

a. Screen educational records.

b. Screen students using system-wide or other basic skill tests in the areas of reading, math, and language arts.

c. Screen school health data such as reports of hearing, vision, speech, or language tests and reports from healthcare personnel regarding the health status of a child.

d. Analyze school records to obtain pertinent information regarding the basis for suspensions, exclusions, withdrawals, and disciplinary actions.

e. In cooperation with the Military Departments, conduct on-going child-find activities and publish, periodically, any information, guidelines, and direction regarding child-find activities for eligible children with disabilities, aged 3 to 21, inclusive.

f. Coordinate the transition of children from early intervention to preschool with the Military Services.

2. Referral of a Child for Special Education or Related Services. The DoDDS officials, MRS providers, or others who suspect that a child has a possible disabling condition shall refer that child to the CSC.

B. Assessment and Evaluation

Any eligible child who is referred to a CSC shall receive a full and comprehensive diagnostic evaluation of educational needs. An evaluation shall be conducted before an IEP is developed or placement is made in a special education program.

1. *Procedures for Assessment and Evaluation.* A CSC shall ensure that the following elements are included in a comprehensive assessment and evaluation of a child:

a. Assessment of visual and auditory acuity.

b. A plan to assess the nature and extent of the disability. A child shall be assessed in all areas related to the suspected disability. When necessary, the assessment plan shall include the following:

(1) Assessment of the level of functioning academically, intellectually, emotionally, socially, and in the family.

(2) Observation in an educational environment.

(3) Assessment of physical status including perceptual and motor abilities.

(4) Assessment of the need for transition services for students 14 years and older, the acquisition of daily living skills, and functional vocational assessment.

c. The involvement of parents, as provided in this part.

d. The use of all locally available community, medical, and school resources to accomplish the assessment. At least one specialist with knowledge in the area of the suspected disability shall be a member of the multidisciplinary assessment team.

e. The requirement that each assessor prepare an individual assessment report that describes the instruments and techniques used, the results of the testing, and the relationship of those findings to educational functioning.

f. The inclusion of a description of the problem area constituting the basis for an MRS referral.

2. *Standards for Assessment Selection and Procedures.* All DoD elements, including the CSC and MRS providers, shall ensure that assessment materials and evaluation procedures comply, as follows:

a. Selected and administered so as not to be racially or culturally discriminatory.

b. Administered in the native language or mode of communication of the child, unless it clearly is not feasible to do so.

c. Validated for the specific purpose for which they are used or intended to be used.

d. Administered by trained personnel in compliance with the instructions of the testing instrument.

e. Administered such that no single procedure is the sole criterion for determining an appropriate educational program for a child with a disability.

f. Selected to assess specific areas of educational needs and strengths and not merely to provide a single general intelligence quotient.

g. Administered to a child with impaired sensory, motor, or communication skills so that the results reflect a child's actual ability or level of achievement, and simply not the impaired skill itself.

3. *Determination of Eligibility for Special Education and Related Services.* The CSC shall be convened to determine the eligibility of a child for special education and related services. The CSC shall do the following:

a. Ensure that the full comprehensive evaluation of a child is accomplished by a multidisciplinary team. The team shall be comprised of teachers or other specialists with knowledge in the area of the suspected disability.

b. Meet as soon as possible after a child has been assessed to determine the eligibility of the child for services.

c. Afford the child's parents the opportunity to participate in the CSC eligibility meeting.

d. Issue a written eligibility report that contains the following:

(1) A description of the nature of the child's disabling condition.

(2) A synthesis of the formal and informal finding of the multidisciplinary assessment team as they relate to the child's current academic progress.

(3) A summary of information from the parents, the child, or other persons

having significant previous contact with the child.

(4) A determination of eligibility statement.

(5) A list of the educational areas affected by a child's disability and a description of a child's educational needs.

4. Reevaluation for eligibility for Special Education and Related Services. School officials shall provide a comprehensive reevaluation of a child with a disability every 3 years, or more frequently, if conditions warrant. The scope and nature of the comprehensive reevaluation shall be determined individually based on a child's performance, behavior, and needs at the time of the reevaluation.

C. Individualized Education Program (IEP)

The DoDDS officials shall ensure that the CSC develops and implements an IEP for each child with a disability who is enrolled in the DoDDS or is placed in another institution by the DoDDS.

1. *The CSC Meeting for the Development and Implementation of an IEP.* The CSC shall establish and convene at meeting to develop, review, or revise the IEP of a child with a disability. The meeting shall be scheduled as soon as possible following a determination by the school or regional CSC that the child is eligible for special education and related services. The meeting participants shall, minimally, include the following:

a. A principal or school representative other than the child's teacher who is qualified to provide or supervise the provision of special education.

b. The child's teacher.

c. A special education teacher.

d. One or both of the child's parents.

e. The child, if appropriate.

f. For a child with a disability who has been evaluated for the first time, a representative of the evaluation team who is knowledgeable about the evaluation procedures used and is familiar with the results of the evaluation.

g. Other individuals invited at the discretion of the parent or school.

2. *Requirements for the Development of the IEP. The CSC shall prepare the IEP with the following:*

a. A statement of the child's present levels of educational performance.

b. A statement of annual goals including short-term instructional objectives.

c. Objective criteria for determining, at least annually, whether the educational objectives are being achieved.

d. A statement of the physical education program provided in one of the following settings:

(1) In the regular education program.

(2) In the regular education program with adaptations, modifications, or the use of assistive technology.

(3) Through specially designed instruction based on the goals and objectives included in the IEP.

e. A statement of the transition services beginning at age 14 and annually, thereafter. When appropriate, include a statement of the inter-Agency responsibilities or linkages (or both) before the student leaves the school setting. If a specially designed instructional program is required, include the goals and objectives in the IEP.

f. A statement of special transportation requirement.

g. A statement of the amount of time per week that each special education and related service shall be provided to the child.

h. The extent to which the child shall participate in regular educational programs, including the following:

(1) The projected date for the initiation and the anticipated length of IEP activities and services.

(2) Any statements requiring an adjusted school day or an extended school year program.

i. A statement of the vocational education program for secondary students. If a specially designed instructional program is required, the necessary goals and objectives in the IEP shall be included.

3. *Requirements for the Implementation of the IEP.* The DoDDS CSC shall:

a. Obtain parental agreement and signature before implementation of the IEP.

b. Provide a copy of the child's IEP to the parents.

c. Ensure that the IEP is in effect before a child receives special education and related services.

d. Review and revise the IEP for each child at least annually in a CSC meeting.

e. Accept a child's current IEP when he or she transfers to the DoDDS provided that the CSC of the gaining school or the regional CSC does the following:

(1) Notifies and obtains consent of the parents to the use the current IEP and all elements contained in it.

(2) Involves the local DoD Component responsible for the delivery of the MRS of the medical requirements in the IEP.

(3) Initiates a CSC meeting to revise the current IEP.

(4) If necessary, initiates an evaluation of the child.

f. Afford the child's parents the opportunity to participate in every CSC meeting to determine their child's initial or continuing eligibility for special education and related services, or to prepare or change the child's IEP or to determine or change the child's placement.

g. Ensure that at least one parent understands the special education procedures including the due process procedures described in Appendix F of this part and the importance of the parent's participation in those processes. School officials will use devices or hire interpreters or other intermediaries who might be necessary to foster effective communications between the school and the parent concerning the child.

h. Provide special education and related services, in accordance with the IEP. The Department of Defense and its constituent elements and personnel are not accountable if a child does not achieve the growth projected in the IEP.

i. Ensure that all provisions developed for any child entitled to an education by the DoDDS are fully implemented in schools or in non-DoDDS schools or facilities including those requiring special facilities, other adaptations, or assistive devices.

D. Placement Procedures and Least Restrictive Environment

1. A child shall not be placed by the DoDDS in any special education program unless the CSC has developed an IEP. If a child with a disability is applying for initial admission to a school, the child shall enter on the same basis as a child without a disability. However, a child with a disability and with the consent of a parent and school officials may receive an initial placement in a special education program under procedures listed in paragraph C.3.e. of this Appendix.

2. A placement decision requires the following:

a. A parent consent to the placement before actual placement of the child, except as otherwise provided herein.

b. Delivery of educational instruction and related services in the least restrictive environment. To the maximum extent, a child with a disability should be placed with children who are not disabled. Special classes, separate schooling, or other removal of a child with a disability from the regular education environment shall occur only when the nature or severity of the disability is such that the child cannot be educated satisfactorily in regular cases with the use of supplementary aids and services.

c. The CSC to base placements on the IEP and to review the IEP at least annually.

d. A child shall participate, to the maximum extent, in school activities including meals, assemblies, recess periods, and field trips with children who are not disabled.

e. Consideration of factors affecting the child's well-being including the effects of separation from parents.

f. A child attends a DoDDS school that is located as close as possible to the residence of the parent who is sponsoring the child's attendance. Unless otherwise required by the IEP, the school should be the same school that the child would have attended had he or she not been disabled.

E. Children With Disabilities Who Are Placed in a Non-DoD School or Facility

Children with disabilities who are eligible to receive a DoDDS education, but are placed in a non-DoDDS school or facility by the DoDDS, shall have all the rights of children with disabilities who are enrolled in a DoDDS school. A child with a disability may be placed in a non-DoDDS school or facility only if required by the IEP.

1. Requirements For a Non-DoDDS School or Facility Placement

a. Placement in a non-DoDDS school or facility shall be made under the host-nation requirements.

b. Placement in a non-DoDDS school or facility is subject to all treaties, Executive agreements, and status of forces agreements between the United States and the host nations, and all DoD and DoDDS regulations.

c. If the DoDDS places a child with a disability in a non-DoDDS school or facility as a means of providing special education and related services, the program of that institution including nonmedical care and room and board, as in the child's IEP, must be provided at no cost to the child or the child's parents. The DoDDS or the responsible DoD Component shall pay the costs in accordance with DoD Instruction 1010.13.[1]

d. Local school officials shall initiate and conduct a meeting to develop an IEP for the child before placement. A representative of the non-DoDDS school or facility should attend the meeting. If the representative cannot attend, the DoDDS officials shall communicate in other ways to ensure participation including individual or conference telephone calls. The IEP must meet the following standards:

(1) Be signed by an authorized DoDDS official before it becomes valid.

(2) Include a determination that the DoDDS does not currently have or cannot reasonably create an educational program appropriate to meet the needs of the child with a disability.

(3) Include a determination that the non-DoDDS school or facility and its educational program and related services conform to the requirements of this Instruction.

2. *Cost of Tuition For Non-DoDDS School or Facility.* The Department of Defense is not authorized to fund a non-DoDDS placement unless it is directed by the DoDDS Regional Director in coordination with the Director, DoDDS; or it is directed by an impartial hearing officer or court of competent jurisdiction. A valid IEP must document the necessity of the placement in a non-DoDDS school or facility.

F. Procedural Safeguards for Children and Parents

Parents of children with disabilities are afforded procedural safeguards to ensure that their children receive a free public education consistent with Appendix F of this part.

1. Notice of Procedural Safeguards

a. Parents shall be provided a written notice in a reasonable time before one of the following:

(1) Receiving a proposal to initiate or change the identification, evaluation, or educational placement of the child or the provision of free public education to the child.

(2) Receiving refusal from the DoDDS to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free public education.

b. The notice shall inform the parent of the following:

(1) Parental procedural rights detailed in Appendix F of this part.

(2) A description of the action proposed or refused by the DoDDS with a brief explanation for the decision.

c. The notice shall be provided so as to ensure the parent's understanding. That may be achieved by using simplified language, delivering the notice in the parent's native language, or using an interpreter or other person selected by the parents.

2. Parental Consent

a. The consent of a parent of a child with a disability or suspected of having a disability shall be obtained before any of the following:

(1) Initiation of formal evaluation procedures.

(2) Initial educational placement.

(3) Change in educational placement.

b. If the parent refuses consent to any formal evaluation or initial placement in a special education program, the DoDDS or the parent may do the following:

(1) Request a conference between the school and parents.

(2) Request mediation.

(3) Initiate an impartial due process hearing under Appendix F of this part to show cause as to why an evaluation or placement in a special education program should or should not occur without such consent. If the hearing officer sustains the DoDDS position in the impartial due process hearing, the DoDDS may evaluate or provide special education and related services to the child without the consent of a parent, subject to the further exercise of due process rights.

3. Independent Evaluation

a. A parent is entitled to an independent evaluation at the expense of the DoDDS if the parent disagrees with the DoDDS evaluation of the child and successfully challenges the evaluation in an impartial due process hearing. An independent evaluation provided at the DoDDS expense must do the following:

(1) Conform to the requirements of this part.

(2) Be conducted, when possible, in the area where the child resides.

(3) Follow all DoD Regulations regarding the host nation.

(4) Meet DoD standards governing persons qualified to conduct an educational evaluation including an evaluation for MRS.

b. If the final decision rendered in an impartial due process hearing sustains the DoDDS evaluation, the parent has the right to an independent evaluation, but not at the DoDDS expense.

c. The DoDDS, the CSC, and a hearing officer appointed under this part shall consider any evaluation report presented by a parent.

4. Access to Records

The parents of a child with a disability shall be afforded an opportunity to inspect and review educational records concerning the identification, evaluation, and educational placement of the child, and the provision of a free public education for the child.

5. Due Process Rights

a. The parent of a child with a disability or the DoDDS has the opportunity to file a written petition for an impartial due process hearing at the DoDDS expense under Appendix F of this part. The dispute may concern

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal, Springfield, VA 22161.

issues affecting a particular child's identification, evaluation, or placement, or the provision of a free, appropriate, public education.

b. While an impartial due process hearing or judicial proceeding is pending, unless the DoDDS and a parent of the child agree otherwise, the child shall remain in the present educational setting, subject to the disciplinary procedures prescribed in section H of this Appendix.

6. Dispute Resolution—Other Complaints

A parent, teacher, or other person covered by this part may file a written complaint concerning any aspect of this part that is not a proper subject for adjudication by a due process hearing officer, in accordance with DSR 2500.10.[2]

G. Confidentiality of Records

The DoDDS officials shall maintain all student records in accordance with 32 CFR part 310.

H. Disciplinary Procedures

All regular disciplinary rules and procedures applicable to children receiving educational instruction in the DoDDS shall apply to children with disabilities who violate school rules and regulations or disrupt regular classroom activities, subject to the following provisions:

1. Before suspending or expelling a child with a disability, the CSC or, in the case of a child with a disability in a non-DoDDS school, authorized DoDDS officials, shall determine the following:

a. Whether the behavioral conduct is the result of the child's disability.

b. If any change in the educational placement is needed.

2. If it is determined that the child's conduct results in whole or part from the disability, the child may not be subject to any regular disciplinary rules and procedures and the following procedures must be followed:

a. The child's parents shall be notified of the right to have an IEP meeting before any change in the child's educational placement.

b. The CSC or authorized DoDDS officials shall ensure that a meeting is held to determine the appropriate educational placement for the child in consideration of the child's conduct.

3. A child with a disability may be suspended on an emergency basis when it reasonably appears that the child's behavior may endanger the health, welfare, or safety of self or any other child, teacher, or school personnel. The following conditions apply:

a. The child's parents shall be notified immediately of that suspension and of the time, purpose, and location of the CSC meeting and of their right to attend the meeting.

b. That suspension remains in effect only for the duration of the emergency.

4. If it is determined that the child requires a change in educational placement, the CSC or, in the case of a child with a disability in a non-DoDDS school, authorized DoDDS officials shall ensure that a meeting is held to determine the appropriate educational placement for the child in consideration of the child's conduct.

[2] Copies of the appropriate forms are available at every school office.

Appendix C to Part 57—The National Advisory Panel (NAP) on the Education of Dependents With Disabilities

A. Membership

The NAP shall meet as needed in publicly announced, accessible meetings open to the general public and shall comply with DoD Directive 5105.4.[1] The NAP members, appointed by the Secretary of Defense, or designee, shall include at least one representative from each of the following groups:

1. Persons with disabilities.

2. The DoDDS special education teachers.

3. The DoDDS regular education teachers.

4. Parents of children, aged 3 to 21, inclusive, who are receiving special education from the DoDDS.

5. The staff personnel of the DoDDS headquarters.

6. Special education program managers from the DoDDS field activities.

7. Representatives of the Military Departments and overseas commands, including providers of related services.

8. Providers of the DoD early intervention services.

9. Other appropriate persons.

B. Activities

1. The NAP shall perform the following activities:

a. Review information regarding improvements in service provided to children with disabilities, aged 3 to 21, inclusive, in the Department of Defense.

b. Receive and consider comments from parents, students, professional groups, and individuals with disabilities.

c. When necessary establish committees for short-term purposes comprised of representatives from parent, student, professional groups, and individuals with disabilities.

d. Review the findings of fact and decisions of each impartial due process hearing conducted under Appendix F to this part.

e. Assist in developing and reporting such information and evaluations as may assist the Department of Defense.

f. Make recommendations based on program and operational information for changes in policy and procedures and in the budget, organization, and general management of the special education program.

g. Comment publicly on rules or standards regarding the education of children with disabilities, aged 3 to 21, inclusive.

h. Perform such other tasks as may be requested by the USD(P&R) or the Director, DoDDs.

2. The NAP members shall serve under appointments that shall be for a term not to exceed 3 years.

C. Reporting Requirements

Submit an annual report of the NAP's activities and suggestions to the USD(P&R) and the Director, DoDDS, by July 31 of each year. That report is exempt from formal review and licensing under section E. of DoD Instruction 7750.7.[2]

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Appendix D to Part 57—DoD Coordinating Committee on Early Intervention, Special Education, and Medically Related Services

A. Committee Membership

The committee shall meet at least twice yearly to facilitate collaboration in the provision of early intervention, special education, and MRS in the Department of Defense. The committee shall consist of the following members:

1. A representative of the USD(P&R) or designee, who shall serve as the Chair.

2. Representatives of the Secretaries of the Military Departments.

3. Representatives of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)).

4. Representatives from the DoD school systems (domestic and overseas).

5. Representatives from the GC, DoD.

B. Responsibilities

1. Advise and assist the USD(P&R) in the performance of his or her responsibilities.

2. At the direction of the USD(P&R), advise and assist the Military Departments, and the DoD school systems (overseas and domestic) in the coordination of services among

[2] See footnote 1 to section A. of this Appendix.

providers of early intervention, special education, and MRS.

3. Ensure compliance in the provision of early intervention services for infants and toddlers and special education and related services for children aged 3 to 21, inclusive.

4. Oversee the coordination of early intervention, special education, and related services.

5. Review the recommendations of the NAP and the Early Intervention ICC to identify common concerns, ensure coordination of effort, and forward issues requiring resolution to the USD(P&R).

6. Promote the coordination of services and information sharing among the providers of early intervention, special education, and MRS.

7. Assist in the coordination of assignments of sponsors of children with disabilities who are or who may be eligible for special education and MRS in the DoDDS or the EIP through the Military Departments.

Appendix E to Part 57—DoD Inter-Component Coordinating Council (ICC) on Early Intervention

A. Committee Membership

The USD(P&R) will appoint members to the ICC. The Council shall meet at least yearly in publicly announced, open meetings that are accessible to the general public and shall comply with DoD Directive 5105.4.[1] The Council shall be comprised of the following:

1. Parents. At least 20 percent of the members shall be parents with infants or toddlers with disabilities or children aged 12 or younger with disabilities, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler or a child aged 6 or younger.

2. Representatives of the Surgeons General of the Military Departments.

3. Representatives of the family support programs of the Military Departments.

4. Representatives from the ASD(HA)

5. Representative(s) from the DoDDS.

6. A representative from the GC, DoD.

B. Responsibilities

1. Advise and assist the Military medical Departments in the performance of their responsibilities, particularly the identification of appropriate resources and Agencies for providing early intervention services and the promoting of inter-Component agreements.

2. Advise and assist the DoDDS on the transition of toddlers with disabilities to preschool services.

3. Identify strategies to address areas of conflict, overlap, duplication, or omission of early intervention services.

4. Review policy memoranda on effective inter-Department and inter-Component collaboration.

5. Review reports of technical assistance and monitoring activities and make recommendations to improve the policies, procedures, programs, and delivery of early intervention services.

6. Make recommendations based on program and operational information for changes in the policy, procedures, budget, organization, and general management of the EIPs.

7. Provide advice and technical assistance in the establishment, membership, and operation of installation or command level ICCs.

8. When necessary, establish committees for short-term purposes comprised of parents of children with disabilities, service providers, and representatives of professional groups.

9. Submit an annual report of its activities and suggestions to the USD(P&R) by July 31 of each year. That report is exempt from formal review and licensing under section E. of DoD 7750.7.[2]

C. Procedures

1. The USD(P&R) shall nominate and select all members to the ICC to include those listed in paragraph A.1 of this Appendix.

2. Appointments shall be for a term not to exceed 3 years except for DoD personnel who are not representing the parent category of membership.

3, The USD(P&R), or designee, shall call and conduct the meeting of the Council.

Appendix F to Part 57—Mediation and Hearing Procedures

A. Purpose

This Appendix establishes requirements for the resolution of conflicts through mediation and impartial due process hearings. Parents of infants, toddlers, and children who are covered by this part and, as the case may be, the cognizant Military Department or the DoDDS are afforded impartial mediation and/or impartial due process hearings and administrative appeals concerning the provision of early intervention services, or the identification, evaluation, educational placement of, and the FAPE provided to, such children by the Department of Defense, in accordance with 20 U.S.C., § 921 *et seq*. and 20 U.S.C., § 1400 *et seq*.

B. Mediation

1. Mediation may be initiated by either a parent or, as appropriate, the Military Department concerned, or the DoDDS to resolve informally a disagreement on the early intervention services for an infant or toddler or the identification, evaluation, educational placement of, or the FAPE provided to, a child aged 3 to 21, inclusive. The cognizant Military Department, rather than the DoDDS, shall participate in mediation involving early intervention services. Mediation shall consist of, but not be limited to, an informal discussion of the differences between the parties in an effort to resolve those differences. The parents and the appropriate school or Military Department officials may attend mediation sessions.

2. Mediation must be conducted, attempted, or refused in writing by a parent of the infant, toddler, or child whose early intervention or special education services (including related services) are at issue before a request for, or initiation of, a formal due process hearing authorized by this Appendix. Any request by the DoDDS or the Military Department for a hearing under this Appendix shall state how that requirement has been satisfied. No stigma may be attached to the refusal of a parent to mediate or to an unsuccessful attempt to mediate.

C. Hearing Administration

1. The Defense Office of Hearings and Appeals (DOHA) shall have administrative responsibility for the proceedings authorized by sections D. through G. of this Appendix.

2. This Appendix shall be administered to ensure that the findings, judgments, and determinations made are prompt, fair, and impartial.

3. Impartial hearing officers who shall be DOHA Administrative Judges, shall be appointed by the Director, DOHA, and shall be attorneys in good standing of the bar of any State, the District of Columbia, or a territory or possession of the United States who are independent of the DoDDS or the Military Department concerned in proceedings conducted under this Appendix. A parent shall have the right to be represented in such proceedings, at no cost to the Government, by counsel, and by persons with special knowledge or training with respect to the problems of individuals with disabilities. The DOHA Department counsel normally shall appear and represent the DoDDS in proceedings conducted under this

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section A. of this Appendix.

Appendix, when such proceedings involve a child aged 3 to 21, inclusive. When an infant or toddler is involved, the Military Department responsible under this Instruction for delivering early intervention services shall either provide its own counsel or request counsel from DOHA.

D. Hearing Practice and Procedure

1. Hearing

a. Should mediation be refused or otherwise fail to resolve the issues on the provision of early intervention services to an infant or toddler or the identification or evaluation of such an individual, the parent may request and shall receive a hearing before a hearing officer to resolve the matter. The parents of an infant or toddler and the Military Department concerned shall be the only parties to a hearing conducted under this enclosure.

b. Should mediation be refused or otherwise fail to resolve the issues on the provision of a FAPE to a child with a disability, aged 3 to 21, inclusive, or the identification, evaluation, or educational placement of such an individual, the parent or the school principal, on behalf of the DoDDS, may request and shall receive a hearing before a hearing officer to resolve the matter. The parents of a child aged 3 to 21, inclusive, and the DoDDS shall be the only parties to a hearing conducted under this enclosure.

c. The party seeking the hearing shall submit a written request, in the form of a petition, setting forth the facts, issues, and proposed relief, to the Director, DOHA. The petitioner shall deliver a copy of the petition to the opposing party (i.e., the parent or the school principal, on behalf of the DoDDS, or the military MTF commander, on behalf of the Military Department), either in person or by first-class mail, postage prepaid. Delivery is complete upon mailing. When the DoDDS or the Military Department petitions for a hearing, it shall inform the other parties of the deadline for filing an answer under paragraph D.1.c. of this section and shall provide the other parties with a copy of this appendix.

d. An opposing party shall submit an answer to the petition to the Director, DOHA, with a copy to the petitioner, within 15 calendar days of receipt of the petition. The answer shall be as full and complete as possible, addressing the issues, facts, and proposed relief. The submission of the answer is complete upon mailing.

e. Within 10 calendar days after receiving the petition, the Director, DOHA, shall assign a hearing officer, who then shall have jurisdiction over the resulting proceedings. The Director, DOHA, shall forward all pleadings to the hearing officer.

f. The questions for adjudication shall be based on the petition and the answer, provided that a party may amend a pleading if the amendment is filed with the hearing officer and is received by the other parties at least 5 calendar days before the hearing.

g. The Director, DOHA, shall arrange for the time and place of the hearing, and shall provide administrative support. Such arrangements shall be reasonably convenient to the parties.

h. The purpose of a hearing is to establish the relevant facts necessary for the hearing officer to reach a fair and impartial determination of the case. Oral and documentary evidence that is relevant and material may be received. The technical rules of evidence shall be relaxed to permit the development of a full evidentiary record, with the Federal Rules of Evidence (28 U.S.C.) serving as a guide.

i. The hearing officer shall be the presiding officer, with judicial powers to manage the proceeding and conduct the hearing. Those powers shall include the authority to order an independent evaluation of the child at the expense of the DoDDS or the Military Department concerned and to call and question witnesses.

j. Those normally authorized to attend a hearing shall be the parents of the individual with disabilities, the counsel and personal representative of the parents, the counsel and professional employees of the DoDDS or the Military Department concerned, the hearing officer, and a person qualified to transcribe or record the proceedings. The hearing officer may permit other persons to attend the hearing, consistent with the privacy interests of the parents and the individual with disabilities, provided the parents have the right to an open hearing upon waiving in writing their privacy rights and those of the individual with disabilities.

k. A verbatim transcription of the hearing shall be made in written or electronic form and shall become a permanent part of the record. A copy of the written transcript or electronic record of the hearing shall be made available to a parent upon request and without cost. The hearing officer may allow corrections to the written transcript or electronic recording for the purpose of conforming it to actual testimony after adequate notice of such changes is given to all parties.

l. The hearing officer's decision of the case shall be based on the record, which shall include the petition, the answer, the written transcript or the electronic recording of the hearing, exhibits admitted into evidence, pleadings or correspondence properly filed and served on all parties, and such other matters as the hearing officer may include in the record, provided that such matter is made available to all parties before the record is closed under paragraph D.1.m. of this section.

l. The hearing officer shall make a full and complete record of a case presented for adjudication.

m. The hearing officer shall decide when the record in a case is closed.

n. The hearing officer shall issue findings of fact and render a decision in a case not later than 50 calendar days after being assigned to the case, unless a discovery request under section D.2. of this section is pending.

2. Discovery

a. Full and complete discovery shall be available to parties to the proceeding, with the ''Federal Rules of Civil Procedure'' (28 U.S.C.) serving as a guide.

b. If voluntary discovery cannot be accomplished, a party seeking discovery may file a motion with the hearing officer to accomplish discovery, provided such motion is founded on the relevance and materiality of the proposed discovery to the issues. An order granting discovery shall be enforceable as is an order compelling testimony or the production of evidence.

c. A copy of the written or electronic transcription of a deposition taken by the DoDDS or the Military Department concerned shall be made available free of charge to a parent.

3. Witnesses; Production of Evidence

a. All witnesses testifying at the hearing shall be advised that it is a criminal offense knowingly and willfully to make a false statement or representation to a Department or Agency of the U.S. Government as to any matter within the jurisdiction of that Department or Agency. All witnesses shall be subject to cross-examination by the parties.

b. A party calling a witness shall bear the witness' travel and incidental expenses associated with testifying at the hearing. The DoDDS or the Military Department concerned shall pay such expenses when a witness is called by the hearing officer.

c. The hearing officer may issue an order compelling the attendance of witnesses or the production of evidence upon the hearing officer's own motion or, if good cause be shown, upon motion of a party.

d. When the hearing officer determines that a person has failed to obey an order to testify or to produce evidence, and such failure is in knowing and willful disregard of the order, the hearing officer shall so certify.

e. The party or the hearing officer seeking to compel testimony or the production of evidence may, upon the certification provide for in paragraph D.3.d. of this section, file an appropriate action in a court of competent jurisdiction to compel compliance with the hearing officer's order.

4. Hearing Officer's Findings of Fact and Decision

a. The hearing officer shall make written findings of fact and shall issue a decision setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The hearing officer shall file the findings of fact and decision with the Director, DOHA, with a copy to the parties.

b. The Director, DOHA, shall forward to the Director, DoDDS, or to the Military Department concerned, and to the NAP or the ICC, as appropriate, copies with all personally identifiable information deleted, of the hearing officer's findings of fact and decision or, in cases that are administratively appealed, of the final decision of the DOHA Appeal Board.

c. The hearing officer shall have the authority to impose financial responsibility for early intervention services, educational placements, evaluations, and related services under his or her findings of fact and decision.

d. The findings of fact and decision of the hearing officer shall become final unless a notice of appeal is filed under section F.1. of this Appendix. The DoDDS or the Military Department concerned shall implement a decision as soon as practicable after it becomes final.

E. Determination Without Hearing

1. At the request of a parent of an infant, toddler, or child aged 3 to 21, inclusive, when early intervention or special educational (including related) services are at issue, the requirement for a hearing may be waived, and the case may be submitted to the hearing officer on written documents filed by the parties. The hearing officer shall make findings of fact and issue a decision within the period fixed by paragraph D.1.n., of this Appendix.

2. The DoDDS or the Military Department concerned may oppose a request to waive that hearing. In that event, the hearing officer shall rule on that request.

3. Documents submitted to the hearing officer in a case determined without a hearing shall comply with paragraph D.1.g. of this appendix. A party submitting such documents shall provide copies to all other parties.

F. Appeal

1. A party may appeal the hearing officer's findings of fact and decision by filing a written notice of appeal with the Director, DOHA, within 5 calendar days of receipt of the findings of fact and decision. The notice of appeal must contain the appellant's certification that a copy of the notice of appeal has been provided to all other parties. Filing is complete upon mailing.

2. Within 10 calendar days of the filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the Director, DOHA, with a copy to the other parties. The other parties shall submit a reply or replies to the Director, DOHA, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete upon mailing.

3. The Director, DOHA, shall refer the matter on appeal to the DOHA Appeal Board. It shall determine the matter, including the making of interlocutory rulings, within 60 calendar days of receiving timely submitted replies under section F.2. of this Appendix. The DOHA Appeal Board may require oral argument at a time and place reasonably convenient to the parties.

4. The determination of the DOHA Appeal Board shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under 20 U.S.C. 921 *et seq.* and 20 U.S.C., 1400 *et seq.* to bring a civil action on the matters in dispute in a district court of the United States without regard to the amount in controversy.

5. No provision of this part or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this Appendix before seeking judicial review of a determination made under this Appendix.

G. Publication and Indexing of Final Decisions

The Director, DOHA, shall ensure that final decisions in cases arising under this Enclosure are published and indexed to protect the privacy rights of the parents who are parties in those cases and the children of such parents, in accordance with 32 CFR part 310.

Dated: May 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–13177 Filed 5–30–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. I

46 CFR Ch. I

[CGD 95–022]

Presidential Regulation Review

AGENCY: Coast Guard, DOT.

ACTION: Reopening of comment period.

SUMMARY: The Coast Guard is announcing an initial policy determination on regulatory reform initiatives. The Coast Guard is also reopening the comment period for public comment on the Coast Guard's regulatory process and its response to the President's Regulatory Reinvention Initiative.

DATES: Written comments must be received not later than December 8, 1995.

ADDRESSES: Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket ad will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce P. Novak, Regulations Coordinator, Oil Pollution Act (OPA 90) Staff, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–6819. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: On March 10, 1995 (60 FR 16423) the Coast Guard announced it would be holding a public meeting in Washington, DC on April 20, 1995, to take comments on the President's recently announced Regulatory Reinvention Initiative and the Coast Guard's regulatory development process. The deadline for

written comments was May 1, 1995. On April 5, 1995 the Coast Guard published a second notice in the **Federal Register** (60 FR 17287) announcing a series of regional public meetings to be held on the same topics. The deadline for written comments in this notice was June 5, 1995.

At the April 20, 1995 public meeting and in written comments to the docket, several commentors requested an extension of the May 1, 1995 comment period. The issues discussed in the notice and at the public meeting are important and require careful thought and evaluation. Since the regulatory reform initiative is an ongoing process, a longer comment period can be accommodated. In addition to receiving comments on the regulatory policy announced in this notice, comments on the issues raised in the two prior notices may be submitted. To provide maximum value on this notice, comments should be received by December 8, 1995. However, late comments will be accepted and evaluated to the extent practicable.

In response to the **Federal Register** notice and public meetings, the Coast Guard has received and is still receiving comments suggesting specific regulations for review and identifying reasons why those regulations should be either amended or eliminated. The Coast Guard will fully evaluate each suggestion and may initiate appropriate rulemaking projects at a later date. However, the Coast Guard has already made a preliminary determination to proceed immediately with at least two regulatory reinvention initiatives. The first is to purge the Code of Federal Regulations of obsolete and out-of-date regulations. A Notice of Proposed Rulemaking (NPRM) proposing a wide range of recissions was published in the **Federal Register** of May 9, 1995 (60 FR 24748). This first set of obsolete and out-of-date regulations has minimal impact on the public and no controversy or objection is expected. Additional obsolete and out-of-date regulations will be proposed for elimination or revision in later rulemaking documents.

Second, the Coast Guard has established a goal of eliminating any Coast Guard induced differential between requirements that apply to U.S. vessels in international trade and those that apply to similar vessels in international trade that fly the flag of responsible foreign nations. The Coast Guard will carefully evaluate every existing and newly proposed regulation. To the maximum extent possible, requirements that create an unwarranted differential between U.S. and responsible international standards will be eliminated. There are several new rulemaking projects under development that reflect this new Coast Guard policy.

The U.S. maritime industry conducted several studies, some of which indicated that industry competitiveness has been adversely impacted by the cost differential between building a vessel to U.S. standards and building it to some foreign standards. The industry reported that differential was from 0% to 15% of the total construction cost. However, all of these industry studies were conducted prior to implementation of the 1981 and 1983 amendments to the 1974 Safety of Life at Sea (SOLAS) Convention. The Convention and its amendments have greatly reduced the gap between U.S. and international standards.

The U.S. has sometimes unilaterally adopted more stringent standards than the international regulations promulgated by the International Maritime Organization (IMO), a specialized agency of the United Nations. A Maritime Administration sponsored study conducted in 1979 reported that the portion of the total construction cost differential directly attributable to discretionary requirements imposed by the Coast Guard was less than one-half of one percent. However, even a one-half of one percent differential in construction costs should be avoided if it does not result in needed additional safety or environmental protection.

In the past, international standards were in large part inadequate or nonexistent which required the United States to adopt high quality standards of its own. This situation has changed in recent years. Great strides have been taken by the responsible members of the international community to adopt standards that provide levels of safety and environmental protection that are generally equivalent to U.S. standards. The IMO has adopted a wide range of safety and environmental protection requirements that parallel many of the standards that apply to U.S. vessels. However, the IMO requirements are in some cases general in nature and need amplifying national regulations. In addition, IMO requirements do not constitute a complete ship construction standard. They must be used together with classification society standards and flag state requirements. Responsible foreign flag states and classification societies now have standards that are equivalent to U.S. standards. Because these responsible flag states and classification societies now assure high levels of protection, it is no longer desirable for the United States to apply different requirements to U.D. vessels. Accordingly, in cooperation with the American Bureau of Shipping, the Coast Guard has identified various U.S. regulations that differ from the best international standards. The Coast Guard is now carefully evaluating each of those regulations to determine if it makes necessary additional safety or environmental protection contributions. Those regulations that do not provide necessary added levels of protection will be proposed for elimination.

Because of the global nature of maritime commerce, it is seldom effective for an individual nation to require substantially different standards for its vessels engaged in international trade. Ships of every nationality call at ports all over the world. Substandard performers pose a risk to their host nations everywhere. For this reason, IMO recently formed the Flag State Implementation Subcommittee (FSI) to develop strong international standards for nations that flag vessels (flag states) and for nations that host vessels (port states). By working closely with the FSI the Coast Guard will assure both a high and a level playing field for U.S. flag vessels in international trade.

The Coast Guard invites comment on this initial regulatory policy.

Dated: May 22, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–13269 Filed 5–30–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MN–36–1–6752b; FRL–5020–2]

Approval and Promulgation of Implementation Plans and Designation of Area for Air Quality Planning Purposes: Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the request for redesignation to attainment for particulate matter (PM) in Olmsted County and sulfur dioxide (SO_2) in the Air Quality Control Region (AQCR) 131 Twin Cities and Pine Bend areas (excluding the St. Paul Park area). In addition, USEPA proposes to approve a State Implementation Plan (SIP) revision to the administrative order for PM for Rochester Public Utilities,

located in Rochester, Minnesota. The Minnesota Pollution Control Agency (MPCA) submitted the proposed SIP revision and redesignation requests on September 7, 1994. In the final rules section of this **Federal Register,** USEPA is approving the SIP revision and requests to redesignation as a direct final rule because the Agency views this as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The USEPA will not institute a second comment period on this notice.

DATES: Comments on this proposed rule must be received on or before June 30, 1995.

ADDRESSES: Written comments should be mailed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–17J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J) United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of the **Federal Register.**

Dated: April 19, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–13180 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AD–FRL–5211–5]

RIN 2060–AF00

Standards of Performance for New Stationary Sources Appendix A , Test Method 23

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule amends Method 23, entitled ''Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources,'' to correct existing errors in the method, to eliminate the methylene chloride rinse of the sampling train, and to clarify the quality assurance requirements of the method.

DATES: *Comments.* Comments must be received on or before August 29, 1995.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by June 14, 1995 a public hearing will be held on June 28, 1995, beginning at 10 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by June 14, 1995.

ADDRESSES: Comments should be submitted (in duplicate if possible) to Public Docket No. A–94–2 at the following address: U. S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code: 6102, 401 M Street SW., Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below. The docket is located at the above address in room M–1500 Waterside Mall (ground floor), and may be inspected from 8:30 a.m.–12 p.m. and 1:30 p.m.–3 p.m., Monday through Friday. The proposed regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling 202–260–7548. A reasonable fee may be charged for copying docket materials.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Lala Cheek (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5545.

Docket. A Docket, A–94–22, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m.–12 p.m. and 1:30 p.m.–3 p.m., Monday through Friday, in at EPA's Air Docket Section (LE–131), Room M–1500 Waterside Mall (ground floor) 401 M Street SW., Washington, DC. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Gary McAlister, Emission Measurement Branch (MD–19), Emissions, Monitoring, and Analysis Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1062.

SUPPLEMENTARY INFORMATION: The proposed regulatory text of the proposed rule is not included in this **Federal Register** document, but is available in Docket No. A–94–22 or by written or telephone request from the Air Docket (see **ADDRESSES**). If necessary, a limited number of copies of the Regulatory Text are available from the EPA contact persons designated earlier in this document. This document with the proposed regulatory language is also available on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards. TTN provides information and technology exchange in various areas of air pollution control. The service is free except for the cost of the phone call. Dial (919) 541–5742 for up to a 14400 bps modem. If more information on TTN is needed, call the HELP line at (919) 541–5384.

I. Summary

Method 23 was promulgated along with the New Source Performance Standard for municipal waste combustors (Subpart Ea). As promulgated, the method contained some errors. This action would correct those errors and would clarify some of the existing quality assurance requirements. In addition, the current procedure requires rinsing of the sampling train with two separate solvents which must be analyzed separately. Based on data the Agency has collected since promulgation of Method 23, we believe that one of these rinse steps and the resulting sample fraction can be eliminated. This could save as much as $2000 per test run in analytical costs.

II. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations nor does it change any emission standard. Rather, the rulemaking would simply amend an existing test method associated with emission measurement requirements in

the current regulations that would apply irrespective of this rulemaking.

III. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed amendment in accordance with section 307(d)(5)of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents readily so that they may effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test method revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

C. Executive Order 12866 Review

Under Executive Order (E.O.) 12866, the EPA must determine whether the proposed regulatory action is ''significant'' and therefore, subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to 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 in State, local, or tribal governments or communities;

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

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

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

Pursuant to the terms of Executive Order 12866, OMB has determined that this proposed rule is not ''significant'' because the annual effect on the economy will not exceed $100 million.

D. 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 an analysis in those instances where small business impacts are possible. This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

E. Paperwork Reduction Act

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

F. Statutory Authority

The statutory authority for this proposal is provided by sections 111 and 301(a) of the Clean Air Act, as amended: 42 U.S.C., 7411 and 7601(a).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Ammonium sulfate plants, Batteries , Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Heaters, Household appliances, Insulation, Intergovernmental relations, Iron, Labeling, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Polymers, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Sulfuric acid plants, Tires, Urethane, Vinyl, Volatile organic compounds, Waste treatment and disposal, Zinc.

Dated: May 22, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–13153 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

[Docket No. 950504128–5128–01; I.D. 031095A]

RIN 0648–AG80

Small Takes of Marine Mammals; Harassment Takings Incidental to Specified Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Marine Mammal Protection Act (MMPA) Amendments of 1994 established an expedited process by which citizens of the United States can apply for an authorization to take incidentally, but not intentionally, small numbers of marine mammals by harassment. This proposed rule sets forth the process for applying for and obtaining an authorization; the time limits set by the statute for NMFS review, publication, and public notice and comment on any applications for authorization that would be granted; and the requirements for submission of a plan of cooperation and for scientific peer review of an applicant's monitoring plans (if that activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes). This rule also proposes changes to the existing regulations to clarify the requirements for obtaining a small take authorization. If implemented, this rule would result in a more streamlined and cost-effective method for obtaining small take by incidental harassment authorizations, without lessening the MMPA's

protection of species and stocks of marine mammals.

DATES: Comments must be received no later than July 17, 1995.

ADDRESSES: Written comments on the proposed rule should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the Environmental Assessment (EA) may be obtained by writing to this address or by telephoning the contact listed below.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*), as enacted in 1981, directs the Secretary of Commerce to allow, upon request by U.S. citizens engaged in a specific activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture or kill. Pursuant to implementing regulations published on May 18, 1982 (47 FR 21248), permission may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe activity-specific regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. These regulations must include requirements pertaining to the monitoring and reporting of such taking.

In 1986, the MMPA and the Endangered Species Act (16 U.S.C. 1531 *et seq.*) were amended to authorize incidental takings of depleted, endangered, or threatened marine mammals. Prior to the 1986 amendments, section 101(a)(5) of the MMPA applied only to non-depleted marine mammals. On September 29, 1989 (54 FR 40338), NMFS and the U.S. Fish and Wildlife Service, jointly published regulations expanding the scope of the 1982 regulations to include depleted marine mammals, revising the definition of negligible impact, and adding a new definition for unmitigable adverse impact.

However, concern was expressed by some during Congressional oversight on the MMPA that the regulatory process for authorizing small takes remained lengthy, cumbersome, and with little correlation to the level of interaction between the activity and marine mammals or the degree of potential harm to the species or stock. The net result, these commenters believed, was that scarce Government resources were being misallocated and that compliance with the MMPA was not encouraged because of the length of time necessary to obtain an authorization.

On April 30, 1994, the President signed Public Law 103–238, the Marine Mammal Protection Act Amendments of 1994. One part of this law amended section 101(a)(5) of the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. It established specific time limits for public notice and comment on any requests for authorization which would be granted under this new provision. The legislative history noted however, that in some instances, requests will be made for authorizations identical to ones issued in the previous year. According to the legislative history, in such circumstances Congress expects NMFS to act expeditiously in complying with the notice and comment requirements. There is no need in such a case, the legislative history notes, for NMFS to use the full 120 days allowed. The legislative history also notes that NMFS should use the general rulemaking authority available under section 112 of the MMPA to establish a process for granting authorization in the case of small takes by harassment in the Arctic Ocean (H.R. Rep. No. 439, 103d Cong., 2d Sess. 29, 30 (Mar. 21, 1994)).

Proposed Action

NMFS is proposing to modify existing regulations found at 50 CFR part 228, subpart A to include the simplified process for authorizing the incidental taking of small numbers of marine mammals by harassment without the need to issue specific regulations governing the taking of marine mammals for each and every activity. The proposed rule sets forth: (1) The process for obtaining an authorization; (2) the specific time limits imposed by the statute for NMFS review and publication, and public notice and comment, on any requests for authorization that would be granted under this paragraph; and (3) the requirements for scientific peer review of an applicant's monitoring plans and submission of a plan of cooperation (if the subject activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes). The proposed rule also incorporates the definition of ''harassment'' added by statute and would make minor changes to the existing regulations to clarify the requirements for obtaining a small take authorization.

Discussion

Scope of Incidental Harassment Authorizations

In the 1994 Amendments to the MMPA, Congress defined the term ''harassment'' as: ''any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild'' (Level A harassment); or ''(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering'' (Level B harassment). For the purpose of incidental harassment authorizations, NMFS proposes to limit the use of those authorizations for harassment involving the ''potential to injure'' to only incidental harassment that may involve non-serious injury. Serious injury for marine mammals, such as permanent hearing or eyesight loss, or severe trauma, could lead fairly quickly to the animal's death. NMFS does not believe that Congress intended to allow ''incidental harassment'' takings to include injuries that are likely to result in mortality, even where such incidental harassment involves only small numbers of marine mammals. Therefore, if the review of an application for incidental harassment indicates that there is a potential for serious injury or death, NMFS proposes that it would either (1) determine that the potential for serious injury can be negated through mitigation requirements that could be required under the authorization or (2) deny the incidental harassment authorization and require

the applicant to petition for a regulated small take authorization under 50 CFR 228.5. For example, if an application indicates that an acoustic source at its maximum output level has the potential to cause a temporary threshold shift in a marine mammal's hearing ability, that taking would constitute a ''harassment'' take, since the animal's hearing ability would recover and the section 101(a)(5)(D) application would be appropriate. However, if the acoustic source at its maximum level had the potential to cause a permanent threshold shift in a marine mammal's hearing ability, that activity would be considered to be capable of causing serious injury to a marine mammal and would therefore not be appropriate for an incidental harassment authorization.

Applications

New section 101(a)(5)(D)(iii) of the MMPA requires NMFS to publish a proposed authorization not later than 45 days after receiving an application under this subparagraph. However, NMFS does not publish notices, but rather files notices with the Office of the Federal Register (OFR) for publication. Actual publication normally occurs in the **Federal Register** 3 to 4 days after receipt at the OFR. The occurrence of weekends and holidays after the receipt date of the application at NMFS, coupled with the days between delivery of a notice of proposed authorization at the OFR and the actual date of publication in the **Federal Register**, often would compress NMFS' review time to less than 30 working days. As a result, in order for NMFS to accept an incidental harassment application, such application must be complete, accurate (to the extent possible), and address in some detail the information items requested as part of the application. If an application does not provide documentary evidence sufficient for NMFS to make a preliminary determination that the activity is likely to result in only a small take (by harassment) of marine mammals and have no more than a negligible impact on the species or stocks impacted or their habitat, NMFS will return the application as incomplete.

NMFS will make a final determination on the application within 45 days after the close of the public review period and will publish notice of the final disposition in the **Federal Register** within 30 days of issuance of that determination.

Also, since the MMPA limits the comment period for incidental harassment authorizations to a maximum of 30 days and a final decision on the application to 45 days after the close of the public comment period, NMFS expects that Federal, federally-funded, or federally-permitted applicants will have completed their responsibilities under the National Environmental Policy Act (NEPA) and its implementing regulations (40 CFR parts 1500–1508) prior to submitting an application for an incidental harassment authorization.

Monitoring Plans

Consistent with the requirements of the MMPA, NMFS proposes to require applicants to monitor the impact of their activity on marine mammals and to submit monitoring plans for all applications for incidental harassment authorizations under part 228. Without appropriate monitoring, NMFS would be unable to ensure that authorizations over time have only a negligible impact on species or stocks of marine mammals and no unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses. NMFS recognizes however, that in some cases the level of monitoring necessary to ensure that the requirements of this section of the MMPA are met may be low. In such cases, NMFS would strive to seek a balance between the need to ensure, through monitoring, that the activity is not having more than a negligible impact on the marine mammals or on the health and stability of the ecosystem of which marine mammals are a part and the logistical burden of the monitoring requirements on the applicant.

Under these proposed regulations, when applying for an incidental harassment authorization under 50 CFR 228.7, the applicant would be required to include a site-specific plan to monitor the effects on stocks of marine mammals that are expected to be present while conducting activities. This plan, whose adequacy must be approved by NMFS, at a minimum, would have to include information regarding: (1) The survey techniques, and/or other methods to be used, to determine whether the behavior (including, if appropriate, vocalizations) of marine mammals near the activity site is being affected, and (2) how the number of marine mammals affected (i.e., taken by harassment) by the planned activity would be determined, including the expected precision of that estimated number. If requested, NMFS would provide guidelines to applicants for development of site-specific monitoring plans.

Requirements for Activities Impacting Arctic Subsistence Needs

Section 101(a)(5)(D)(ii)(III) of the MMPA requires

> independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses * * *.

To minimize potential conflicts among user groups over whether a proposed Monitoring Plan (Plan) is adequate for determining the effects of the proposed activity on stocks of marine mammals, the applicant would be required to submit a draft Plan either along with an incidental harassment application or no later than 120 days prior to the date an incidental harassment authorization is expected to be issued. Upon receipt of the draft Plan, NMFS would establish an independent peer-review panel to critique the Plan and, if appropriate, to provide NMFS and the applicant with suggestions for improvement of monitoring. It is anticipated that the applicant would consider any comments and recommendations made by the panel or NMFS prior to submitting a final proposed Plan to NMFS. This final plan should be submitted a minimum of 30 days prior to the date an incidental harassment authorization is expected to be issued.

As an example of a peer-reviewed process, applicants involved in oil and gas exploration activities in the Beaufort Sea cooperate with NMFS and North Slope residents and usually a workshop is scheduled to peer-review their Plan. That procedure is likely to continue under this rule. For this activity, the workshop normally includes 6-10 experts in the fields of population ecology, survey design, acoustics, and marine mammal behavior. Panelists are selected by NMFS, in consultation with the Marine Mammal Commission (MMC), the Alaskan Eskimo Whaling Commission (AEWC) and/or other Alaskan native organizations as appropriate, and the applicant. Selected panelists are experts who are not currently employed or contracted by either the affected Alaskan native organization or the applicant. Normally, the workshop is chaired by either a NMFS or MMC employee and minutes from the workshop are prepared within 2 weeks by a rapporteur, assigned to assist the Chair, and made available to the general public upon request.

If a plan proposes to continue, without significant modification, the approved plan from the previous year, the Assistant Administrator for Fisheries, NOAA (AA) may waive the requirement for peer-review. This determination would be announced in either the proposed authorization notice for an incidental harassment authorization or the notice of issuance

of an annual Letter of Authorization (LOA) under 50 CFR 228.6 and would be made available to the general public.

Also, when applying for either an incidental harassment authorization or an LOA, for an activity that has the potential to affect the availability of a species or stock of marine mammal for taking by subsistence uses, the applicant would also be required to submit a plan of cooperation that identifies what measures have been taken and would be taken to minimize the adverse effects on the availability of marine mammals for subsistence users. This cooperation plan would have to include: (1) A statement that the applicant has notified and met with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding siting, timing and methods of operation; (2) a description of what measures the applicant has taken and would take to ensure that activities would not interfere with subsistence hunting; and (3) a statement that the applicant would continue to meet with the affected communities up to and during the activities to resolve conflicts and notify the native communities of any changes in plans or operation.

Reporting

Consistent with the MMPA, NMFS proposes to require the holder of an incidental harassment authorization to submit a report to the AA within 90 days of completion of any activities or 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report would include information on the dates and types of activities, dates and locations of any monitoring activities, and results of the monitoring activities (e.g., estimate of actual number of animals taken by species by take-type and a description of any observed changes in behavior attributable to the exploratory activities).

Monitoring reports would be reviewed by the AA and if determined to be incomplete or inaccurate, would be returned to the holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the AA, the holder would have an opportunity to request an independent peer review of the report. A failure to submit a complete report may result in a delay in processing subsequent authorization requests.

Other Regulatory Amendments

In this rule, NMFS is also proposing to amend existing regulations to streamline and clarify the process for issuing regulations and/or LOAs. In addition, NMFS is proposing to require any Federal agencies that apply for authorization under this part to provide to the AA, as part of the application process, any documentation such agency has prepared under NEPA. Any delay in submission of appropriate NEPA documentation could cause a delay in small take authorization under these regulations. Private entities either funded or permitted by Federal agencies for the applied activity would need to submit NEPA documentation prepared by the funding agency with their small take application. Private organizations not funded by Federal agencies would need to provide sufficient information in their application for NMFS to perform an appropriate NEPA analysis. Applicants would be expected to give consideration to, and fully discuss, alternatives to their activity that would involve a lesser impact on marine mammals or their habitat, including seasonal or diel alternatives. Agencies could formally provide a NEPA document as part of their application at the following junctures: (1) At any time subsequent to publication and release of a final environmental impact statement or analysis, provided the document reflected the situation as described in the small take application and had undergone public review and comment; or (2) upon notification in the **Federal Register** that the document is available for public review.

Agencies requesting NMFS to be a ''cooperating agency'' as defined in Council on Environmental Quality regulations (40 CFR 1501.6) would have to notify the AA in writing a minimum of 18 months prior to expected initiation of the proposed activity in order for NMFS to assess program commitments and research requirements (if any), for cooperating in the joint completion of the NEPA document. Although NMFS would make every attempt to cooperate with other agencies, it cannot guarantee its ability to cooperate with agencies not meeting this criterion.

National Environmental Policy Act

The general regulations in subpart A would implement section 101(a)(5)(D) of the MMPA, as added by the 1994 Amendments, by providing a mechanism to authorize the incidental, but not intentional, taking by harassment of small numbers of marine mammals by U.S. citizens engaged in a specified activity in a specified geographic region. Also included are proposed amendments to the existing subpart A. The AA has determined, based upon an EA prepared for this action under NEPA, that implementation of these general regulations would not have a significant impact on the human environment. As a result of this determination, an environmental impact statement is not required. A copy of the EA is available upon request (see **ADDRESSES**).

In addition, while each proposed incidental harassment authorization will be reviewed independently to determine its impact on the human environment, NMFS believes that, because the finding required for incidental harassment authorizations is that the taking (by harassment) have a negligible impact on marine mammals and their habitat, the majority of the authorizations should be ''categorically excluded'' (as defined in 40 CFR 1508.4) from the preparation of either environmental impact statements or environmental assessments under NEPA and section 6.02.c.3(i) of NOAA Administrative Order 216–6 for Environmental Review Procedures (published August 6, 1991).

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would simply establish an expedited process for the review and issuance of authorizations for the incidental taking of small numbers of marine mammals by harassment while conducting activities (other than commercial fishing) in and near marine waters. Without these authorizations, the taking of marine mammals, even by harassment, is prohibited.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act. Although this collection has been approved previously by the Office of Management and Budget (OMB) under OMB control number 0648–0151, because of new collection requirements for activities taking place in Arctic waters, this rule is being resubmitted to OMB for review and approval. The average reporting burden for this collection is estimated to be approximately 252 hours per activity (range 96–563 hours depending upon complexity), including the time for

gathering and maintaining the data needed, and completing and reviewing the collection of information including annual reports.

List of Subjects in 50 CFR Part 228

Marine mammals, Reporting and recordkeeping requirements.

Dated: May 23, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 228 is proposed to be amended as follows:

PART 228—REGULATIONS GOVERNING SMALL TAKES OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

1. The authority citation for part 228 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart A is revised to read as follows:

Subpart A—General

Sec.
228.1 Purpose.
228.2 Scope.
228.3 Definitions.
228.4 Submission of requests.
228.5 Specific regulations.
228.6 Letter of authorization.
228.7 Incidental harassment authorization.
228.8 Requirements for monitoring and reporting under incidental harassment authorizations.

Subpart A—General

§ 228.1 Purpose.

The regulations in this part implement section 101(a)(5)(A) through (D) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1371(a)(5)), which provides a mechanism for allowing, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region.

§ 228.2 Scope.

The taking of small numbers of marine mammals under section 101(a)(5) of the Marine Mammal Protection Act may be allowed only if the National Marine Fisheries Service:

(a) Finds, based on the best scientific evidence available, that the total taking by the specified activity during the specified time period will have a negligible impact on species or stock of marine mammal(s) and will not have an unmitigable adverse impact on the availability of those species or stocks of marine mammals intended for subsistence uses;

(b) Prescribes either regulations under § 228.5, or requirements and conditions contained within an incidental harassment authorization issued under § 228.7, setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species or stock of marine mammal and its habitat and on the availability of the species or stock of marine mammal for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance; and

(c) Prescribes either regulations or requirements and conditions contained within an incidental harassment authorization, as appropriate, pertaining to the monitoring and reporting of such taking. The specific regulations governing certain specified activities are contained in subsequent subparts to this part.

§ 228.3 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this part 228:

Act means the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361 *et seq.*

Assistant Administrator means the Assistant Administrator for Fisheries, NOAA, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

Citizens of the United States and *U.S. citizens* mean individual U.S. citizens or any corporation or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13). U.S. Federal, state and local government agencies shall also constitute citizens of the United States for purposes of this part.

Harassment means any act of pursuit, torment, or annoyance that:

(1) Has the potential to injure a marine mammal or marine mammal stock in the wild; or

(2) Has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Incidental harassment, incidental taking and *incidental, but not intentional, taking* all mean an accidental taking. This does not mean that the taking is unexpected, but rather it includes those takings which are infrequent, unavoidable or accidental. (A complete definition of take is contained in § 216.3 of this chapter).

Negligible impact is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Small numbers means a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.

Specified activity means any activity, other than commercial fishing, that takes place in a specified geographical region and potentially involves the taking of small numbers of marine mammals.

Specified geographical region means an area within which a specified activity is conducted and that has certain biogeographic characteristics.

Unmitigable adverse impact means an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:

(i) Causing the marine mammals to abandon or avoid hunting areas;

(ii) Directly displacing subsistence users; or

(iii) Placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

§ 228.4 Submission of requests.

(a) In order for the National Marine Fisheries Service to consider authorizing the taking by U.S. citizens of small numbers of marine mammals incidental to a specified activity (other than commercial fishing), or to make a finding that an incidental take is unlikely to occur, a written request must be submitted to the Assistant Administrator. All requests must include the following information for their activity:

(1) A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

(2) The specific date(s) and duration of such activity and the specific geographical region where it will occur;

(3) The species and numbers of marine mammals likely to be found within the activity area and those marine mammals that may be taken by the activity by age, sex, and reproductive condition;

(4) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

(5) The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death), the method of incidental taking (e.g., disturbance by anthropogenic noise such as construction, seismic activities, or ship traffic; serious injury or death resulting from explosives or collisions between marine mammals and ships), and the number of times such taking is likely to occur;

(6) The anticipated impact of the activity upon the species or stock of marine mammal;

(7) The anticipated impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses;

(8) The anticipated impact of the activity upon the habitat and food sources of the marine mammal populations, and the likelihood of restoration of the affected habitat or food sources;

(9) The anticipated impact of the loss or modification of the habitat or food sources on the marine mammal populations involved;

(10) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance.

(11) Where the proposed activity would take place in or near a traditional subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for subsistence uses, the applicant must submit a plan of cooperation that identifies what measures have been taken and will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. A plan must include the following:

(i) A statement that the applicant has notified and met with the affected subsistence communities to discuss proposed activities and to resolve potential conflicts regarding any aspects of the operation;

(ii) A description of what measures the applicant has taken and will take to ensure that proposed activities will not interfere with subsistence whaling or sealing; and

(iii) What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation.

(12) The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Assistant Administrator.

(13) Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

(b)(1) The Assistant Administrator shall determine the adequacy and completeness of a request, and, if determined to be adequate, complete, and in full compliance with the Act and other existing laws and regulations (in particular, the National Environmental Policy Act and the Endangered Species Act), will egin the public review process by publishing in the **Federal Register** either:

(i) A proposed incidental harassment authorization; or

(ii) A notice of receipt of a request for the promulgation or repromulgation of regulations governing the incidental taking.

(2) Through notice in the **Federal Register**, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity, NMFS will invite information, suggestions, and comments for a period not to exceed 30 days from the date of publication in the **Federal Register**. All information and suggestions will be considered by the National Marine Fisheries Service in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization or conditions governing the issuance of an incidental harassment authorization.

(3) Applications that are determined to be incomplete, or inappropriate for the type of taking requested, will be returned to the applicant with an explanation of why the application is being returned.

(c) The Assistant Administrator shall evaluate each request to determine, based upon the best available scientific evidence, whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and, where appropriate, will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. If the Assistant Administrator finds that the mitigating measures would render the impact of the specified activity negligible when it would not otherwise satisfy that requirement, the Assistant Administrator may make a finding of negligible impact subject to such mitigating measures being successfully implemented. Any preliminary findings of ''negligible impact'' and ''no unmitigable adverse impact'' shall be proposed for public comment along with either the proposed incidental harassment authorization or the proposed regulations for the specific activity.

(d) If, subsequent to the public review period, the Assistant Administrator finds that the taking by the specified activity would have more than a negligible impact on the species or stock of marine mammal or would have an unmitigable adverse impact on the availability of such species or stock for subsistence uses, the Assistant Administrator shall publish in the **Federal Register** the negative finding along with the basis for denying the request.

§ 228.5 Specific regulations.

(a) For all petitions for regulations under this paragraph, applicants must provide the information requested in § 228.4(a) on their activity as a whole, which includes, but is not necessarily limited to, an assessment of total impacts by all persons conducting the activity.

(b) For allowed activities that may result in incidental takings of small numbers of marine mammals by harassment, serious injury, death or combination thereof, specific regulations shall be established for each allowed activity which set forth:

(1) Permissible methods of taking;

(2) Means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(c) Regulations will be established based on the best available information. As new information is developed,

through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review.

§ 228.6 Letter of authorization.

(a) A Letter of Authorization, which may be issued only to U.S. citizens, is required to conduct activities pursuant to any regulations established under § 228.5. Requests for letters of authorization shall be submitted to the Assistant Administrator. The information to be submitted in a request will be specified in the regulations authorizing the incidental take or may be obtained by writing to the Assistant Administrator.

(b) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

(c) Letters of Authorization will specify the period of validity and any additional terms and conditions appropriate for the specific request.

(d) Notice of issuance of all Letters of Authorization will be published in the **Federal Register** within 30 days of issuance.

(e) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The regulations prescribed are not being substantially complied with; or

(2) The taking allowed is having, or may have, more than a negligible impact on the species or stock, or where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(f) The requirement for notice and opportunity for public review in § 228.6(e) shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the wellbeing of the species or stocks of marine mammals concerned.

(g) A violation of any of the terms and conditions of a Letter of Authorization or of the specific regulations shall subject the Holder and/or any individual who is operating under the authority of the Holder's Letter of Authorization to penalties provided in the Act.

§ 228.7 Incidental harassment authorization.

(a) Except for activities that have the potential to result in serious injuries (that may be authorized under § 228.5), following a 30-day public review period, incidental harassment authorizations may be issued to allowed activities that may result in only the incidental harassment of a small number of marine mammals. Each such incidental harassment authorization shall set forth:

(1) Permissible methods of taking by harassment;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting, including requirements for the independent peer-review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

(b) Issuance of an incidental harassment authorization will be based on a determination that the number of marine mammals taken by harassment will be small, will have a negligible impact on the species or stock of marine mammal(s), and will not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses.

(c) An incidental harassment authorization will be either issued or denied within 45 days after the close of the public review period.

(d) Notice of issuance or denial of an incidental harassment authorization will be published in the **Federal Register** within 30 days of issuance of a determination.

(e) Incidental harassment authorizations will be valid for 1 year.

(f) An incidental harassment authorization shall be modified, withdrawn, or suspended, if, after notice and opportunity for public comment, the Assistant Administrator determines that:

(1) The conditions and requirements prescribed in the authorization are not being substantially complied with, or

(2) The authorized taking, either individually or in combination with other authorizations, is having, or may have, more than a negligible impact on the species or stock, or, where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(g) The requirement for notice and opportunity for public review in § 228.7(f) shall not apply if the Assistant Administrator determines that an emergency exists that poses a significant risk to the well being of the species or stocks of marine mammals concerned.

(h) A violation of any of the terms and conditions of an incidental harassment authorization shall subject the Holder and/or any individual who is operating under the authority of the Holder's Incidental Harassment Authorization to penalties provided in the Act.

§ 228.8 Requirements for monitoring and reporting under incidental harassment authorizations.

(a) Holders of an incidental harassment authorization and their employees, agents, and designees must cooperate with the National Marine Fisheries Service and other designated Federal, state, or local agencies to monitor the impacts of their activity on marine mammals. Unless stated otherwise within an incidental harassment authorization, the Holder of an incidental harassment authorization must notify the appropriate Regional Director, National Marine Fisheries Service, of any activities that may involve a take by incidental harassment at least 14 calendar days prior to commencement of the activity.

(b) Holders of incidental harassment authorizations may be required by their authorization to designate at least one qualified biological observer or another appropriately experienced individual to observe and record the effects of activities on marine mammals. The number of observers required for monitoring the impact of the activity on marine mammals will be specified in the incidental harassment authorization. If required, the observer(s) must be approved in advance by the National Marine Fisheries Service.

(c) The monitoring program must, if appropriate, document the effects (including acoustical) on marine mammals and document or estimate the actual level of take. The requirements for monitoring plans, as specified in the incidental harassment authorization, may vary depending on the activity, the location, and the time.

(d) Where the proposed activity may affect the availability of a species or stock of marine mammal for taking for subsistence purposes, proposed monitoring plans or other research proposals must be independently peer reviewed prior to final approval of the applicant's submission of a request for an incidental harassment authorization under this subpart. In order to complete the peer-review process within the time frames mandated by the Act for an incidental harassment authorization, a proposed monitoring plan submitted under this paragraph must be submitted to the Assistant Administrator no later than the date of submission of the application for an incidental harassment authorization. Upon receipt of a complete monitoring plan, and at its

discretion, the National Marine Fisheries Service will either submit the plan to members of a peer-review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan. The applicant must submit a final monitoring plan to the Assistant Administrator prior to the issuance of an incidental harassment authorization.

(e) At its discretion, the National Marine Fisheries Service may place an observer on board vessels, platforms, aircraft, etc., to monitor the impact of activities on marine mammals.

(f) *Reporting.* (1) The holder of an incidental harassment authorization must submit a report to the Assistant Administrator within either 90 days of completion of any activities or 120 days prior to expiration of the incidental harassment authorization, whichever is earlier. This report must include the following information:

(i) Dates and type(s) of activity;

(ii) Dates and location(s) of any activities related to monitoring the effects on marine mammals; and

(iii) Results of the monitoring activities, including an estimate of the actual level and type of take, species name and numbers of each species observed, direction of movement of species, and any observed changes or modifications in behavior.

(2) Monitoring reports will be reviewed by the Assistant Administrator and, if determined to be incomplete or inaccurate, will be returned to the holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

[FR Doc. 95–13265 Filed 5–30–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 104
Wednesday, May 31, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.
ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Opta Food Ingredients, Inc. of Bedford, Massachusetts, and to American Maize-Products Company of Hammond, Indiana, co-exclusive licenses to U.S. Patent Application Serial No. 07/991,811 filed December 17, 1992, ''Starch-Natural Gum Composite Compositions as Thickening and Suspending Agents.'' Notice of Availability was published in the **Federal Register** on April 19, 1993.
DATES: Comments must be received on or before July 31, 1995.
ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC–West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.
FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.
SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as repesented by the Secretary of Agriculture. It is in the public interest to so license this invention as Opta Food Ingredients, Inc. and American Maize-Products Company have submitted complete and sufficient applications for a license. The prospective co-exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive licenses may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,
Assistant Administrator.

[FR Doc. 95–13240 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–03–M

Animal and Plant Health Inspection Service

[Docket No. 95–038–1]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Notice and solicitation of comments.

SUMMARY: In accordance with legislation implementing the Uruguay Round of the General Agreements on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties and the Secretariat of the International Plant Protection Convention, and we are soliciting public comment on the standards to be considered.
ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–038–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state in your letter that your comments refer to Docket No. 95–038–1, and state the name of the committee or working group to which your comments are addressed. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.
FOR FURTHER INFORMATION CONTACT: Mr. Douglas Barnett, Assistant Director, International Activities, International Services, APHIS, 4700 River Road Unit 67, Riverdale, MD 20737–1233, (301) 734–8892; or Mr. John Greifer, Trade Support Team, International Services, APHIS, room 1128, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250.
SUPPLEMENTARY INFORMATION: Legislation implementing the Uruguay Round of the General Agreements on Tariffs and Trade (the Uruguay Round Agreements Act) was signed into law (Pub. L. 103–465) by the President on December 8, 1994. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*) by adding a new subtitle F, ''International Standard-Setting Activities.'' Subtitle F requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing a notice in the **Federal Register** no later than June 1 of each year, which provides the following information: (1) The sanitary or phytosanitary standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each sanitary or phytosanitary standard specified, a description of the consideration or planned consideration of the standard; whether the United States is participating or plans to participate in the consideration of the standard; the agenda for United States participation, if any; and the agency responsible for representing the Untied States with respect to the standard.

Subtitle F defines ''international standard'' as a standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission regarding food safety; (2) developed under the auspices of the International Office of Epizootics regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement or by member countries of the World Trade Organization.

The Codex Alimentarius Commission (Codex) was created in 1962 by two United Nations organizations, the Food

and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of customers.

The Office International des Epizooties (OIE) was created in Paris, France, in 1924, with the signing of an international agreement by 28 countries. Today, 143 countries are members. The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals, assists in the development of animal production through improved health information, and shares scientific progress among its members. The OIE provides the major international forum for discussion and agreement on recommendations and proposals on topics such as disease control, technical cooperation, trade standards, and the exchange of research and disease information.

The Secretariat of the International Plant Protection Convention (IPPC) was established within the FAO in 1952 in response to demands from members for development of global standards for plant quarantine. The IPPC works with plant protection organizations at national and regional levels, including the North American Plant Protection Organization (NAPPO), to harmonize plant quarantine activities worldwide, facilitate the dissemination of phytosanitary information, strengthen international cooperation, and support technical assistance to developing countries.

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institution for the conduct of trade relations among the members in matters related to the Uruguay Round of the General Agreements on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization. This responsibility has been delegated to the Food Safety and Inspection Service of the United States Department of Agriculture (USDA) for Codex activities, and to the USDA's Animal and Plant Health Inspection Service (APHIS) for OIE and IPPC activities.

Accordingly, in this notice, APHIS announces the following OIE and IPPC (including NAPPO) activities related to international standards. The United States is a participant in each of the following activities and APHIS is the agency responsible for representing the United States with respect to these standards. In some cases, working groups and committees have not yet set meeting dates and places or determined specific standards to be discussed. Also, because working groups and the issues they address are not static, this list may not present a complete picture of the OIE and IPPC sanitary and phytosanitary standard-setting activities during the coming year.

1. *Committee/Working Group:* Standards Commission of the OIE
   Agency Participant: Dr. James Pearson
   General Purpose: Establish standards for methods of diagnosing animal disease and testing biologics used for control programs.
   Dates of Meetings: September 19–22, 1995, February 1996
   Location of Meetings: Paris, France
   Major Discussion/Agenda: Review of OIE reference laboratories; diagnostic test standardization; OIE reference sera; laboratory quality assurance; review of new edition of OIE *Manual of Standards of Diagnostic Tests and Vaccines;* provide advice to OIE Animal Health Code Commission
2. *Committee/Working Group:* OIE General Session
   Agency Participant(s): Dr. Lonnie King (delegate); Dr. Alex Thiermann (alternate delegate and coordinator)
   General Purpose: Establish and adopt international standards dealing with animal health.
   Date of Meeting: May 1996
   Location of Meeting: Paris, France
   Major Discussion/Agenda: Animal health standards as they relate to trade; including risk assessment standards (including criteria for evaluating veterinary infrastructure) and regionalization
3. *Committee/Working Group:* IPPC Certification Standards
   Agency Participant: Mr. Robert Griffin
   General Purpose: Development of standards for phytosanitary certification.
   Date of Meeting: To be announced
   Location of Meeting: To be announced
   Major Discussion/Agenda: Model certification system
4. *Committee/Working Group:* IPPC Inspection Methodologies Standards
   Agency Participant: Mr. Robert Griffin
   General Purpose: Development of standards for inspection methodology.
   Date of Meeting: To be announced
   Location of Meeting: To be announced
   Major Discussion/Agenda: Statistical basis for inspection
5. *Committee/Working Group:* IPPC/ Foreign Agricultural Organization Working Group on Pest Risk Analysis
   Agency Participant: Mr. Richard Orr
   General Purpose: Development of international standards for pest risk analysis.
   Date of Meeting: To be announced
   Location of Meeting: To be announced
   Major Discussion/Agenda: To be announced
   Other: The following standards have been completed in draft form:
   Standards for Pest Categorization (Bangkok, Thailand, Sept. 1994); standards for determining whether an organism qualifies as a quarantine pest.
   Standards on Economic Impact Assessment (Ottawa, Canada, Nov. 1994); standards for performing an economic evaluation, including environmental and social impacts) within a pest risk assessment.
   Standards on the Probability of Introduction (Geneva, Switzerland, Jan. 1995); standards for determining the probability of introduction (entry resulting in establishment) of a pest.
   Standard on Risk Management (Yokohama, Japan, Mar. 1995); standards for making risk management decisions based on data from quarantine pest risk assessments.
6. *Committee/Working Group:* NAPPO Biological Control Committee
   Agency Participant: Dr. Dale Meyerdirk
   General Purpose: Facilitate cooperation among NAPPO member countries regarding biological control issues, through information exchange, coordination, and harmonization of recommendations, regulations, and guidelines.
   Date of Meeting: February 19–13, 1996
   Location of Meeting: Mexico
   Major Discussion/Agenda: To be announced
7. *Committee/Working Group:* NAPPO Fruit Tree and Grapevine Nursery Stock Certification Standards Panel
   Agency Participant: Dr. Joseph Foster
   General Purpose: Set minimum standards for pathogen testing and propagation of fruit trees and grapevines so certified nursery stock can be shipped safely throughout North America.
   Date of Meeting: June 21–24, 1995
   Location of Meeting: Victoria, British Columbia, Canada

Major Discussion/Agenda: Pathogen lists for each crop and pathogen testing procedures for quarantine programs

8. *Committee/Working Group:* NAPPO Working Group
   Agency Participant: Mr. Robert Griffin
   General Purpose: Provide general leadership, director, and support to NAPPO activities.
   Date of Meeting: July and October, 1995; January and April, 1996
   Location of Meeting: To be announced
   Major Discussion/Agenda: All new and ongoing NAPPO business, including standards
9. *Committee/Working Group:* NAPPO Ad Hoc Irradiation Panel
   Agency Participant: Mr. Robert Griffin
   General Purpose: Develop NAPPO standards for the application of irradiation to phytosanitary problems.
   Date of Meeting: To be announced
   Location of Meeting: To be announced
   Major Discussion/Agenda: Continuing development of trilateral policy
10. *Committee/Working Group:* NAPPO Ad Hoc Fruit Flies Panel
   Agency Participant: Mr. Michael Stefan and Mr. Alan Green
   General Purpose: Develop quarantine pest list for NAPPO region; develop NAPPO standards for monitoring fruit fly species; develop NAPPO standard for phytosanitary measures.
   Date of Meeting: To be announced
   Location of Meeting: To be announced
   Major Discussion/Agenda: Regional pest list; monitoring standards; phytosanitary measures standards; rationale on how to proceed with issues not of direct concern to one of the three members
11. *Committee/Working Group:* NAPPO Pest Risk Analysis Panel
   Agency Participant: Dr. Matthew Royer
   General Purpose: To implement NAPPO pest risk analysis standard.
   Date of Meeting: October 1995
   Location of Meeting: Saskatchewan, Canada
   Major Discussion/Agenda: To be announced
12. *Committee/Working Group:* NAPPO Executive Committee
   Agency Participant: Mr. Alfred S. Elder
   General Purpose: To harmonize plant quarantine regulations and import requirements among Canada, Mexico, and the United States
   Date of Meeting: August 15, 1995; October 1995; April 1996
   Location of Meeting: Saskatchewan, Canada; Ottawa, Ontario, Canada
   Major Discussion/Agenda: Standards development process; area freedom standard; pest surveillance/monitoring standard; pest risk analysis standard.

Comments on standards being considered or to be considered by any of the committees or working groups listed above may be sent to us as directed under the heading **ADDRESSES.**

Done in Washington, DC, this 25th day of May 1995.

Terry L. Medley

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–13241 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on June 21, 1995 at the Olympic Natural Resources Center, 1455 S. Forks Avenue, Forks, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. Agenda items to be covered include: (1) Review Long Term Vision from May meeting; (2) Discuss and Identify Tasks and Working Groups; (3) Review Watershed Analysis Priority Criteria—Recommend criteria for PIEC; (4) Intergovernmental Data and Information Sharing; (5) Adaptive Management Area Planning; (6) Summary of Ecosystem Research in the Hoh; (7) Open public forum. All Olympic Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (36) 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: May 24, 1995.

Ronald R. Humphrey,

Forest Supervisor.

[FR Doc. 95–13203 Filed 5–30–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Open Meeting Florida Keys National Marine Sanctuary Advisory Committee

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Florida Keys National Marine Sanctuary Advisory Council notice of open meeting.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: June 20, 1995, from 9:00 a.m. until adjournment. The meeting location will be at the Hawk's Cay Resort, Mile Marker 61, Duck Key, Florida.

AGENDA:

1. Elect new officers.
2. Outline procedures for the advisory council's involvement in the review of draft management plan.
3. Schedule next meeting.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Public comment will be received from 11:30 until noon and 4:30 to 5:30. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: June Cradick at (305) 743–2437.

Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program.

Dated: May 25, 1995.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–13281 Filed 5–30–95; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 050595D]

Permits; Foreign Fishing

In accordance with a memorandum of understanding with the Secretary of State, the National Marine Fisheries Service publishes for public review and comment summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to operate in the exclusive

economic zone, under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*). This notice concerns the receipt of an application from the Government of Poland requesting authorization to conduct a joint venture (JV) in the Northwest Atlantic Ocean. The application requests 10,000 metric tons (mt) of Atlantic sea herring and 5,000 mt of Atlantic mackerel be made available for the JV. The freezer trawler MANTA is identified as the vessel that will receive sea herring and mackerel from U.S. vessels. Based on receipt of a foreign JV application for Atlantic sea herring, and in accordance with section 201(h) of the Magnuson Act, necessary regulatory actions are being effected and a Preliminary Fishery Management Plan (PMP) for Atlantic sea herring is being developed. Specifications for the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan presently include 35,000 mt of Atlantic mackerel as available for JV processing. Approvability of the JV's, as proposed in the Polish application, will be contingent on development of a PMP for sea herring with specifications that include an amount of U.S.-harvested herring for such operations, and on other issues that bear on the approval of foreign fishing permits. Send comments on this application to:

NOAA—National Marine Fisheries Service, Office of Fisheries Conservation and Management, 1315 East-West Highway, Silver Spring, MD 20910 and/or, to one or both of the Regional Fishery Management Councils listed below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; (617) 231–0422.

David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19901–6790; (302) 674–2331.

For further information contact Robert A. Dickinson, Office of Fisheries Conservation and Management; (301) 713–2337.

Dated: May 23, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–13263 Filed 5–30–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D.052295A]

Marine Mammals and Endangered Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P557E).

SUMMARY: Notice is hereby given that Scripps Institution of Oceanography, Institute for Geophysics and Planetary Physics, Acoustic Thermometry of Ocean Climate Program, 9500 Gilman Drive, La Jolla, CA 92093–0225, has applied in due form for a permit to take several species of marine mammals and sea turtles for purposes of scientific research. The subject application supersedes a previous application published at 58 FR 60426, then modified and re-published at 59 FR 7983, and a subsequent revision to that application which was never published, both of which have been withdrawn.

DATES: Written comments must be received on or before June 30, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (301/980–4016).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, Permits Division, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The permit application requests authorization to harass marine mammals and sea turtles by a low frequency sound source (peak frequency 75 Hz, 35 Hz bandwidth; 195 dB level (re 1 μPa at 1 m)) which would be located approximately 14 km north of Kauai, at a depth of 850 m. The proposed research would be conducted over a 2-year period.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 23, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–13196 Filed 5–30–95; 9:22 am]

BILLING CODE 3510–22–F

[I.D. 052295B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application to modify permit no. 927 (P79I).

SUMMARY: Notice is hereby given that Institute of Marine Science, University of California, Santa Cruz, CA 95064, has requested a modification to permit No. 927.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 310 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written data or views, or requests for a public hearing on this request should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject modification to permit No. 927, issued on June 17, 1994 (publ. June 23, 1994, 59 FR 32419) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

Permit No. 927 authorizes the permit holder to capture, tag, and sample up to 220 fur seals (*Callorhinus ursinus*) and to incidentally harass up to 69,000 annually during research activities. The permit holder requests authorization to increase the sample size of adult females from 60 to 120 and pups from 160 to 560. The increase is requested for: comparison of St. Paul vs St. George Island with regard to foraging ecology and its possible influence in explaining differences in the rate of recovery of populations of fur seals; continuation of studies of milk intake, metabolism, growth, thermoregulation and condition at weaning; and determine if pups with greater mass prior to weaning have a different fatty acid composition from pups of lower mass.

Dated: May 23, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–13264 Filed 5–30–95; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange: Proposed Amendments to the Gulf Coast Unleaded Regular Gasoline Futures Contract Relating to the Delivery Procedures and Delivery Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has submitted proposed amendments to its Gulf Coast unleaded regular gasoline futures contract that, among other things, would: (1) Require that all futures deliveries regardless of size be made on the Colonial Pipeline system at an injection point from Pasadena, Texas to Moundville, Alabama; (2) eliminate the public terminal delivery alternative; (3) require the buyer receiving less than 25 contracts to reimburse the seller for any Colonial Pipeline shipping charges incurred for making such deliveries; and (4) for a particular delivery month restrict all futures deliveries to the third cycle of the Colonial Pipeline for that month, provided that deliveries of less than 25 contracts would be further restricted to the back-half of such third Colonial Pipeline cycle.

In accordance with Section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on these proposals.

DATES: Comments must be received on or before June 30, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the proposed amendments to the New York Mercantile Exchange Gulf Coast unleaded regular gasoline futures contract.

FOR FURTHER INFORMATION CONTACT: John Forkkio, Jr., Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: Under current provisions of the Gulf Coast unleaded regular gasoline (gasoline) futures contract, for all positions involving 25 contracts or more, delivery must be F.O.B. at a Colonial Pipeline injection station selected by the seller in the delivery area. The delivery area for pipeline deliveries encompasses the area along the Colonial Pipeline from Pasadena, Texas upstream to Moundville, Alabama. For all positions involving deliveries of less than 25 contracts, deliveries must be f.o.b. at one of the three public terminal facilities located in the region around Pasadena, Texas—GATX Terminals Corporation, OilTanking Houston Inc., or Amerada Hess Corporation. Such deliveries can be made by intra-facility or inter-facility transfer of product or by barge shipment. All public terminal deliveries are assessed a surcharge of 1.75¢ per gallon, payable by any party receiving or delivering less than 25 contracts.

Under existing provisions, for a particular delivery month, pipeline deliveries must be made during either the second or third Colonial Pipeline delivery cycle for that month. This essentially provides a delivery period of about 21 days.[1]

Under the proposed amendments, all deliveries on the gasoline futures contract, regardless of position size, must be by pipeline delivery into the Colonial Pipeline system in the existing delivery area as noted above.[2] Additionally, under the proposed amendments, all deliveries in a particular delivery month would be restricted to the third cycle of the Colonial Pipeline for that month; provided that deliveries with respect to positions involving less than 25 contracts would be further restricted to the back-half of such third cycle. Proposed amendments also would require the seller making delivery on a position involving less than 25 contracts to make all the required arrangements for shipment of the product on the Colonial Pipeline, and the buyer to reimburse the seller for any Colonial Pipeline shipping charges incurred by the seller in making such deliveries.

The Exchange proposes to apply the proposed amendments to newly listed contract months only following its receipt of notice of Commission approval.

According to the Exchange, the proposed amendments were proposed to conform the futures delivery rules with cash market practices in the Gulf and to provide more certainty in the timing of deliveries on the futures contract. Specifically, the NYMEX stated:

> The Contract will remain unchanged for ''round'' deliveries where delivery is made directly into the Colonial Pipeline * * *
>
> * * * Deliveries of less than 25,000 barrels are not directly deliverable into the Pipeline, and hence, the existing Gulf Coast Contract has specified delivery of odd-lots into public terminals. The proposed amendments are based on the fact that Colonial allows for a shipper to designate beneficial owners of product through what is known as a ''consignee'' relationship * * *.
>
> The ''consignee'' relationship allows shippers to consign smaller portions of gasoline shipments to one or more beneficial owners, so that odd-lot batches of less than 25,000 barrels can be accommodated on the

[1] To efficiently transport product through its pipeline system, Colonial divides the year into 36 cycles. Each month has three cycles; each with a duration of about ten days. Additionally, each cycle is subdivided into a front half and a back half, each of five days duration.

[2] As a result of this proposal, public terminal deliveries on the contract will no longer be permitted. As a consequence, intra and inter-facility transfers and barge shipments will not be permissible methods of delivery on the contract.

Colonial Pipeline. An authorized shipper on Colonial is allowed to break up a batch of 25,000 barrels, and allocate odd-lot batches to various consignees, who then specify a delivery point along the Colonial Pipeline. The beneficial owner, or consignee, can be changed on Colonial's records. Thus, an odd-lot delivery of gasoline can be shipped on the Colonial Pipeline, as long as the odd-lot seller finds a shipper in the cash market to add the seller's odd-lot batch to his existing shipment of at least 25,000 barrels on Colonial. The ''consignee'' relationship provides the mechanism to perform the odd-lot delivery directly into Colonial Pipeline * * *.

With respect to the Exchange proposal to change the delivery period so that all deliveries will occur in either the front-half or back-half of the third cycle of the Colonial Pipeline, the NYMEX stated that:

In the cash market, prices are negotiated for products delivered in each half-cycle increment on Colonial Pipeline, and prices typically vary between each half-cycle, depending on market conditions. Narrowing the delivery period to the third cycle of the month provides sufficient capacity on the Colonial Pipeline to accommodate NYMEX deliveries. In addition, narrowing the delivery period to the third cycle would provide greater certainly in terms of the timing for the pricing of the commodity. The most actively traded cash market instrument in the Gulf Coast is for delivery in the third cycle of Colonial Pipeline.

The Division requests comment on the proposed changes to the NYMEX gasoline futures contract. The Commission is specifically requesting comments on the effect of the proposed restrictions regarding deliveries involving less than 25 contracts. The Division also requests comment on the effect of the proposal to restrict deliveries to one Colonial Pipeline cycle per month on the economically deliverable supply of gasoline available for the contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendment should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20481 by the specified date.

Issued in Washington, D.C. on May 23, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–13188 Filed 5–30–95; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Local Redevelopment Authority (LRA) for the Available Surplus Camp Evans Facility, Fort Monmouth, Located at Wall, New Jersey

AGENCY: U.S. Army Corps of Engineers, New York District.

ACTION: Notice.

SUMMARY: This notice provides information regarding the LRA that has been established to plan the reuse of the Camp Evans Facility, Fort Monmouth, located on Marconi and Monmouth Roads in Wall Township, New Jersey, as set forth in the new procedures under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Verruni, Town Administrator—Wall Township, ATTN: MPCA, 2700 Allaire Road, Wall, New Jersey 07719–1168, phone: (908) 449–8444, ext. 216.

SUPPLEMENTARY INFORMATION: In 1993 the Camp Evans area of Fort Monmouth, Wall Township, New Jersey was designated for closure pursuant to Title II Section 204 of Public Law 100–526, Defense Base Closure and Realignment Act, supplemented by paragraph 7 of section 2905(b) of the 1990 Base Closure Act, 10 U.S.C. 2687, as amended by subsection (a) of the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421.

1. *Election to proceed under procedures established by Public Law 102–421.* The Base Closure Community Redevelopment and Homeless Assistance Act of 1994 Public Law 103–421, subsection (e)(1)(b) of the 1994 Act gives a redevelopment authority at base closure sites the option of employing new procedures with regard to the manner in which the redevelopment plan for Camp Evans is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies.

2. *Redevelopment authority.*

a. The Redevelopment Authority for Camp Evans for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Marconi Park Complex Advisory Committee (MPCAC) which was appointed by the Township Committee of Wall Township, New Jersey. The Township Committee is the governing body of Wall Township. The Marconi Park Complex Advisory Committee conducted one public meeting to receive comments from individuals and organizations interested in the reuse of the base.

b. The MPCAC is assisted by a full time Township Administrator, Mr. Joseph L. Verruni. Comments for proposals regarding the development of the site for consideration by the MPCAC as the Local Redevelopment Authority should be addressed to Mr. Verruni, Township Administrator, ATTN: MPCA, 2700 Allaire Road, Wall, New Jersey 07719–1168.

3. *Take notice.* Pursuant to the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, the Marconi Park Complex Advisory Committee (LRA) of Wall Township extends until June 30, 1995 the period in which State and local governments, representatives of the homeless and other interested parties located in the communities in the vicinity of the Camp Evans may submit notices of interest to the MPCAC in all or part of the property and/or buildings located at Camp Evens.

4. *Surplus property description.* The Camp Evans site consists of 215 acres of land of which 91 acres more or less are improved with buildings utilized for communications and electronics research and development facilities and storage. The site includes a two story administrative building, two single family detached residences, radio and signal towers, Quonset buildings, ''H'' type storage building used for research facilities and numerous pre-1945 frame structures utilized for storage for electronics equipment and other materials and maintenance facilities. The site includes three buildings which are eligible for the National Register of Historic sites.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–13197 Filed 5–30–95; 8:45 am]

BILLING CODE 3710–06–M

Intent To Prepare a Draft Environmental Impact Statement to Evaluate a Permit Application for a Confined Dredged Material Disposal Facility in Newark Bay, New Jersey

AGENCY: U.S. Army Corps of Engineers—New York District, Department of the Army, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: The construction of a Confined Dredged Material Disposal Facility in navigable waters of the United States requires a Department of the Army Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344). The EIS process will assist the U.S. Army Corps of Engineers' (USACE) in determining whether to issue a permit for the project under these authorities. This action is taking place in accordance with the USACE procedures for implementing the National Environmental Policy Act (33 CFR Part 325).

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Seebode, Chief, Regulatory Branch New York District Corps of Engineers, 26 Federal Plaza, Room 1937, New York, New York 10278–0090, telephone (212) 264–3996.

SUPPLEMENTARY INFORMATION:

1. Projected Description

The proposed Newark Bay Confined Disposal Facility (CDF) would provide an alternate regional disposal site for contaminated dredged material that is unsuitable for ocean disposal, or that requires special management procedures at the federally designated Mud Dump Site located six miles off the coast of Sandy Hook, New Jersey. The CDF would be constructed by excavating two large subaqueous pits, to a maximum depth of approximately 90 feet below the plane of Mean Low Water, by clamshell bucket dredge. The two pits would occupy a surface area of approximately 160 acres and have a total volume capacity of approximately 14 million cubic yards. The larger of the two pits would measure approximately 100 acres in size and have a capacity of approximately 9.3 million cubic yards, while a second, smaller pit would have a surface area of approximately 60 acres and a capacity of 4.7 million cubic yards.

2. Reasonable Alternatives

In addition to the no action alternative, reasonable alternatives to be considered include the following:

a. Alternative pit location

b. Alternative methods of filling pit(s):

(1) Fill completely

(2) Partially fill so that some depression remains

(3) Capping alternative (sand vs. mud vs. no cap)

c. Alternative methods of dredged material disposal:

(1) Ocean disposal

(2) Containment islands and areas (land extension)

(3) Upland disposal

(4) Sanitary landfill cover

(5) Wetlands Creation

3. EIS Scoping

As part of the EIS scoping process, comments on the proposed scope of the EIS will be accepted until 45 days after the publication of this NOI in the **Federal Register**; all comments should be addressed to the contact person indicated above. In addition to receiving written comments, the USACE will receive oral comments during a public scoping meeting scheduled for the latter part of the scoping period. Formal notice of this meeting will be made through mailings and/or legal notices in local newspapers.

4. Public Participation in the EIS Process

The EIS process will provide opportunities for full participation by interested federal, state, and local agencies, as well as other interested organizations and the general public. These opportunities will include periodic public meetings and agency availability sessions. All interested parties are encouraged to submit their names and addresses to the contact person indicated above for inclusion on the distribution list for the draft and final EIS and any related public notices.

5. Federal Agency Participation in the EIS Process

Federal agencies with an interest in this EIS effort are requested to participate as cooperating agencies pursuant to 40 CFR Part 1501.6. All interested federal agencies are requested to submit a letter of intent to Colonel Thomas A. York, Corps of Engineers District Engineer.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–13198 Filed 5–30–95; 8:45 am]

BILLING CODE 3710–06–M

Department of the Navy

Notice of Public Hearing for the Draft Environmental Impact Statement for the Disposal and Reuse of the Naval Training Center (NTC), Orlando, FL

Pursuant to Council on Environmental Quality Regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for the Proposed Disposal and Reuse of the NTC Orlando, Florida.

In response to the recommendations of the 1993 Department of Defense Base Realignment and Closure Commission (BRAC–93) and to legislative requirements of the 1990 Base Realignment and Closure Act (Public Law 101–510), the Naval Training Center (NTC), Orlando, Florida, is to be closed and the property to be made available for disposal and reuse. The Navy has prepared a DEIS which addresses the environmental impacts of disposing NTC Orlando and of its potential reuse. The purpose of the DEIS is to assist the Secretary of the Navy in making a decision concerning the disposition of NTC property. It is the Navy's policy to adopt the community's redevelopment plan as its preferred alternative. The preferred alternative presented in the DEIS is the NTC Reuse Plan approved by the City of Orlando.

The preferred alternative for the Main Base is a combination of land uses, featuring a Village Center, which would provide pedestrian-oriented retail, office, and residential uses. The Village Center would be surrounded by offices, a business park, education, recreation, and open space. The primary use of McCoy Annex would be warehouse/distribution and residential. Open space uses would include retention of the nine-hole golf course and other non-developed areas. Area C would be used for warehouse and industrial, and the Herndon Annex would be developed as a distribution facility associated with the Orlando Executive Airport. The preferred alternative would generate more than 15,500 jobs at full buildout in 2015, and increase traffic in the area substantially.

The DEIS has been distributed to various federal, state, and local agencies, elected officials, special interest groups, and the media. A limited number of single copies are available at the address listed at the end of this notice.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held at the Audobon Elementary School, 1500 Falcon Drive, Orlando, Florida, on Thursday evening, June 15, 1995, from 7 p.m. until the end of pubic comment or 12 midnight.

The public hearing will be conducted by the Navy. Federal, state and local agencies, and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a legal stenographer; however, to ensure accuracy of the record, all statements should be submitted in writing. All statements, oral and written, will become a part of the pubic record of this study, and will be responded to in the Final Environmental Impact Statement. Equal weight will be given to both oral and written statements.

In the interest of available time, each speaker will be asked to limit his/her comments to five minutes. If longer statements are to be presented, they should be summarized for the public hearing and submitted in long-form at the hearing or mailed to the address listed at the end of this announcement. All written comments must be postmarked by 26 June 1995, to become a part of the official record.

Additional information concerning this notice may be obtained by contacting Ronnie Lattimore (Code 064RL), Southern Division, Naval Facilities Engineering Command, PO Box 190010, North Charleston, South Carolina, 29419–9010, telephone (803) 743–0888.

Dated: May 25, 1995.

L.R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–13223 Filed 5–30–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by June 30, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requests, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public, and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: May 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Notice of Final Priority Under Section 1308(a) of the Elementary and Secondary Education Act
Frequency: One time
Affected Public: State, Local and Tribal Governments
Reporting Burden:
Responses: 51
Burden Hours: 13
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: Information will be used to make grant awards, on a one-time basis in FY 1995, to provide additional resources to State Educational Agencies to assist them in the transfer for educational and health records of migratory children.

Additional Information: Clearance for this information collection is requested by June 30, 1995. The Department must obligate these funds by September 30, 1995 because this priority was originally set aside for FY 1994 Migrant Education Program appropriation.

[FR Doc. 95–13189 Filed 5–30–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 30, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and

Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Reinstatement

Title: Application for Field-Initiated Studies Educational Research Grant Program

Frequency: Annually

Affected Public: Individual or households; Not for profit Institutions; State, Local or Tribal Government

Reporting Burden:

Responses: 750

Burden Hours: 11,250

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This information collection allows institutions of higher education; state and local education agencies; public and private organizations; institutions, and agencies; and individuals to apply for grants under the Field-Initiated Studies Program supported by five National Research Institutes. Funds will support educational research that will improve American education.

[FR Doc. 95–13190 Filed 5–30–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–67–020]

Southern Natural Gas Company; Notice of Refund Report

May 24, 1995.

Take notice that on May 22, 1995, Southern Natural Gas Company (Southern) tendered for filing a refund report pursuant to the Commission's order dated March 2, 1995, in the above-captioned proceeding. Southern states that these refund levels result from the restatement of Southern's GSR billing units effective from January 1, 1994, through January 1, 1995.

Southern seeks in this filing to support the derivation of its principal refund levels by customer and the accrued interest through the refund date of May 2, 1995.

Southern states that copies of the refund report are being mailed to all applicable Southern shippers and interest state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 of the Commission's Rules of Practice and Procedure (§ 385.211). All such protests should be filed on or before June 1, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–13193 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–301–000]

Southern Natural Gas Company; Notice of Petition for Limited Waiver of Transportation Tariff Provisions

May 24, 1995.

Take notice that on May 19, 1995, Southern Natural Gas Company (Southern) filed a petition for a limited waiver of certain provisions of its FERC Gas Tariff, Seventh Revised Volume No. 1, in compliance with § 161.3(b) of the Commission's Regulations.

Southern is requesting a limited waiver of Section 3(b) of Rate Schedules FT and FT–NN of its tariff to allow Northwest Alabama Gas District (Northwest) to subscribe to additional firm transportation (FT) service on Southern's system at a two-part rate as a part of a proposed expansion project while retaining its existing firm transportation services subject to a one-part rate.

Southern states that a copy of the filing is being served on all of Southern's shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 1, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–13194 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89-34-015]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

May 24, 1995.

Take notice that on May 19, 1995, Williston Basin Interstate Pipeline Company (Williston) tendered for filing a refund report. Williston states that the report documents refunds of amounts due customers under Williston's Docket Nos. RP89-34-000, RP89-257-000, and RP90-2-000 for the locked-in period from June 1, 1989, through May 31, 1992.

Williston states that it is filing the refund report pursuant to the Commission's Order on Rehearing issued April 5, 1995, in the above referenced dockets. Williston also states that the refunds are being mailed to its customers on May 19, 1995, and the total refunds covered by the instant filing amount to $3,543,062.65, 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, N.E. Washington D.C. 20426, in accordance with § 385.211 of the Commission's Regulations. All such protests should be filed on or before June 1, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13195 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC95–12–000, et al.]

Century Power Corporation, et al., Electric Rate and Corporate Regulation Filings

May 23, 1995.

Take notice that the following filings have been made with the Commission:

1. Century Power Corporation

[Docket No. EC95–12–000]

Take notice that on May 19, 1995, Century Power Corporation filed an application under § 203 of the Federal Power Act for an order authorizing it to terminate its status as a public utility under the Act as of the later of (1) January 2, 1996, or such other date as it sells its 8.2% ownership interest in San Juan Unit 3 and ceases making sales for resale of electric power, or (2) the expiration of appeal rights under the last of the final Commission orders in Docket Nos. ER79–97 or EL93–19, in which Century serves as a conduit to pay over to San Diego Gas & Electric Company any refunds received from Tucson Electric Power Company. Upon the later of these events, Century expects to no longer perform any function subject to the Commission's jurisdiction under the Act.

Comment date: June 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. The Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. EC94–14–000]

Take notice that on May 9, 1995, The Cleveland Electric Illuminating Company (Cleveland Electric) and The Toledo Edison Company (Toledo Edison)(together, the Applicants), pursuant to § 203 of the Federal Power Act, 16 U.S.C. § 824b, and Part 33 of the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), tendered for filing an amendment to the application for an order from the Commission authorizing the merger of Toledo Edison into Cleveland Electric.

The Applicants are public utilities organized and existing under the laws of the State of Ohio, and both Applicants are engaged in the business of supplying electric energy to wholesale and retail customers within the State of Ohio. Cleveland Electric generates, transmits, distributes and sells electric energy to approximately 748,000 customers in Northeastern Ohio. Toledo Edison generates, transmits, distributes and sells electric energy to approximately 285,000 customers in Northwestern Ohio. Cleveland Electric's and Toledo Edison's operations are subject to regulation by The Public Utilities Commission of Ohio. Centerior Energy Corporation (Centerior), which is organized and existing under the laws of the State of Ohio, is the 100% owner of the common stock of both Cleveland Electric and Toledo Edison. Each of Cleveland Electric and Toledo Edison has outstanding serial preferred shares that are held by the public.

Under the terms and conditions of a definitive Agreement of Merger entered into by Cleveland Electric and Toledo Edison, 100% of the common shares of Toledo Edison will be converted into newly-issued common shares of Cleveland Electric, the Toledo Edison preferred shares will be exchanged for newly-issued preferred shares of Cleveland Electric, and any dissenting preferred shareholders of Toledo Edison will be paid cash for their shares upon exercise of applicable dissenters' rights. Upon the occurrence of these events, Toledo Edison will be merged into Cleveland Electric, and the separate corporate existence of Toledo Edison will cease. Cleveland Electric will, by operation of law, acquire title to and interest in all facilities of Toledo Edison that are currently under the jurisdiction of the Commission, and Cleveland Electric will operate such facilities without change.

Cleveland Electric and Toledo Edison believe that the proposed corporate reorganization is consistent with the public interest, and that it will be in the best interest of the customers, share owners and employees of both Applicants.

Comment date: June 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Central Power and Light

[Docket No. ER95–853–000 Company]

Take notice that on May 16, 1995, Central Power and Light Company (CPL) tendered for filing an amendment to its Coordination Sales Tariff, filed March 31, 1995. Under the Coordination Sales Tariff, CPL will make Economy Energy, Short-Term Power and Energy, General Purpose Energy and Emergency Energy Service available to customers upon mutual agreement. The amendment lowers the rate for purchase and resale transactions.

CPL has asked for an effective date of April 1, 1995. Copies of this filing were served on the Public Utility Commission of Texas and all customers presently established under the Tariff. Copies are also available for public inspection at CPL's offices in Corpus Christi, Texas.

Comment date: June 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 95–13225 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–595–000, et al.]

Kentucky Utilities Company, et al., Electric Rate and Corporate Regulation Filings

May 24, 1995.

Take notice that the following filings have been made with the Commission:

1. Kentucky Utilities Company

[Docket No. ER95–595–000]

Take notice that on May 12, 1995, Kentucky Utilities Company (KU) filed an Amendment to the modified Letter Agreement between KU and Wabash Valley Power Association, Inc. (Wabash Valley).

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Service Company

[Docket No. ER95–781–000 Company]

Take notice that on May 1, 1995, Northeast Utilities Service Company (NUSCO) submitted for filing, on behalf of the Northeast Utilities (NU) System

Companies, supplemental information relating to the Fourth Amendment to a System Power Sales Agreement between NUSCO and Bozrah Light and Power Company (BL&P). NUSCO renews its request that the Agreement be permitted to become effective April 1, 1995.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1030–000]

Take notice that on May 10, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement with Rainbow Energy Marketing Corporation, Inc. (REMC) 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 MWhr 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 REMC will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon REMC.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Boston Edison Company

[Docket No. ER95–1031–000]

Take notice that on May 10, 1995, Boston Edison Company (Edison) tendered for filing for informational purposes a letter agreement dated March 20, 1995, with Wellesley Municipal Light Plant (WMLP) implementing the terms and conditions of Exhibit C, Section V, of the October 26, 1992 Agreement between Edison and WMLP, which was approved by the Commission in Docket Nos. ER86–562–000, ER87–122–000 and ER91–149–000.

Edison states that it has served a copy of this filing on WMLP and the Massachusetts Department of Public Utilities.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Public Service Corporation

[Docket No. ER95–1032–000]

Take notice that on May 10, 1995, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Enron Power Marketing, Inc. under its CS–1 Coordination Sales Tariff.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Minnesota Power & Light Company

[Docket No. ER95–1033–000]

Take notice that on May 11, 1995, Minnesota Power & Light Company tendered for filing signed Service Agreements with CENERGY, Rainbow Energy Marketing Corporation and Heartland Energy Services Inc. under its Wholesale Coordination Sales Tariff to satisfy its filing requirements under this tariff.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Nevada Power Company

[Docket No. ER95–1035–000]

Take notice that on May 11, 1995, Nevada Power Company (Nevada Power) tendered for filing the proposed Power Sale Agreement (Agreement) between Nevada Power and the Colorado River Commission (CRC) having a proposed effective date of June 1, 1995.

The Agreement proposes that Nevada Power will make available to the CRC, when pre-scheduled by the CRC, up to 15 MW of on-peak firm capacity and energy during the summer season (May through September) and up to 45 MW during the non-summer season. Nevada Power will make available to the CRC up to 100 MW of firm capacity and energy off-peak year round. An annual minimum energy scheduled of 50,000 Mwh on-peak and 85,000 Mwh off-peak will be required. The term of the Agreement is from June 1, 1995 through May 31, 1996. The rate for sales under the Agreement contains a Capacity Charge component and an Energy Charge component.

Copies of this filing have been served on the CRC and the Nevada Public Service Commission.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER95–1040–000]

Take notice that on May 12, 1995, New England Power Company filed Service Agreements and Certificates of Concurrence with three power marketers under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER95–1041–000]

Take notice that on May 12, 1995, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) (collectively the California Companies), tendered for filing Rate Schedule changes to: (1) Amendment No. 1 to the July 31, 1967 contract between the California Companies and Western, Central Valley Project, California, for Extra High Voltage Transmission and Exchange Service (Contract No. 2947A), and (2) Ruling No. 44, Revision 2 as an addendum to the August 25, 1966 California Companies Pacific Intertie Agreement (CCPIA).

Amendment No. 1 to Contract No. 2947A and Ruling No. 44, Revision 2 to the CPPIA change certain of the transmission loss factors used under Contract No. 2947A and the CCPIA, in order to be similar to those established in the Coordinated Operations Agreement previously submitted to FERC and designated PG&E Rate Schedule FERC No. 146, Edison Rate Schedule FERC No. 270 and SDG&E Rate Schedule FERC No. 78.

Copies of this filing have been served upon the parties on the service list and the California Public Utilities Commission.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. System Energy Resources, Inc.

[Docket No. ER95–1042–000]

Take notice that on May 12, 1995, Entergy Services, Inc. (ESI), tendered for filing on behalf of System Energy Resources, Inc. (SERI) amendments to SERI Rate Schedule No. 2 (the Unit Power Sale Agreement and related Billing Format) applicable to Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. The proposed changes would increase revenue from jurisdictional sales and service by approximately $65,537,000 based on the 12-month period ending December 31, 1994.

The proposed changes will, among other things, increase the rate of return on equity, increase the revenue requirement associated with decommissioning costs, and increase the depreciation accrual rate. ESI requests that the proposed changes become effective 50 days after the filing date, but be suspended until September 1, 1995.

Copies of the filing were served upon the appropriate state and local regulators in Arkansas, Louisiana, Mississippi, and Tennessee.

Comment date: June 7, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 95–13226 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–327–000]

Transwestern Pipeline Company; Notice of Intent to Prepare an Environmental Assessment for Transwestern Pipeline Company's Proposed Rio Grande River Crossing Project and Request for Comments on Environmental Issues

May 24, 1995

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss environmental impacts of the construction and operation of the facilities proposed in the Rio Grande River Crossing Project. This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.[1]

Summary of the Proposed Project

Transwestern Pipeline Company (Transwestern) proposes to construct and operate approximately 3,200 feet of 30-inch-diameter pipeline under the Rio Grande River in Valencia County, New Mexico. The proposed pipeline segment would replace one of Transwestern's two 30-inch-diameter pipelines that originally crossed over the Rio Grande River on a steel structure pipeline bridge. On August 20, 1994, an explosion ruptured one of these two pipelines and the bridge were replaced under § 2.55 of the Commission's Regulations but the second pipeline was not replaced at that time.

The proposed segment would be installed from an existing block valve on Transwestern's existing pipeline located about 1,100 feet southeast of the Upper San Juan Riverside Drain. It would cross the Upper San Juan Riverside Drain, the Rio Grande River, and the Upper Sabinal Riverside Drain, and end at another existing block valve located about 350 feet northwest of the Upper Sabinal Riverside Drain.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Transwestern proposes to use an existing 150-foot-wide pipeline corridor for construction but may require up to a 250-foot-wide construction work space. Based on a 150-foot-wide construction work space, about 11 acres of land would be affected by construction.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are taken into account during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. These impacts may include, but are not limited to:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified three issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transwestern. Keep in mind that this is a preliminary list. The list of issues may be added to, subtracted from, or changed based on your comments and our analysis. Issues are:

- The proposed project would cross three waterbodies, the Upper Sabinal Riverside Drain, the Rio Grande River and the Upper San Juan Riverside Drain.
- Two federally listed and two state endangered species may occur in the proposed project area.
- The proposed project would cross the Casa Colorado Waterfowl Management Area.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow

[1] Transwestern Pipeline Company's application was filed with the Commission pursuant to Section 7 of the Natural Gas Act and Part 157 of the Commission's Regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.W., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.
- Reference Docket No. CP95–327–000;
- Send a *copy* of your letter to: Ms. Mary Hertling, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 7312, Washington, D.C. 20426; and.
- Mail your comments so that they will be received in Washington, D.C. on or before July 5, 1995.

If you wish to receive a copy of the EA, you should request one from Ms. Hertling at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by § 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Ms. Mary Hertling, EA Project Manager, at (202) 208–0874.

Lois D. Cashell,

Secretary.

[FR Doc. 95–13192 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–498–000, et al.]

Colorado Interstate Gas Company, et al.; Natural Gas Certificate Filings

May 24, 1995.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP95–498–000]

Take notice that on May 15, 1995, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP95–498–000 an abbreviated application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity to change the deliverability of the Flank and Latigo Storage Fields all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to Commission orders issued in Docket No. CP92–154–000, et al., CIG constructed certain facilities at its Flank and Latigo Storage Fields designed to enhance the deliverability from these two storage fields. CIG estimated that the additional facilities would increase the maximum deliverability of each field to 150 Mmcf per day. After construction and operation of the facilities authorized in Docket No. CP92–154, et al., CIG claims that the deliverability of Flank and Latigo Storage Fields is actually 165 Mmcf per day and 140 Mmcf per day, respectively. Therefore, CIG requests a change in the certificated deliverability for these two storage fields. No new facilities are required to effect the proposed deliverability changes.

Comment date: June 14, 1995, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP95–499–000]

Take notice that on May 15, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000 filed in Docket No. CP95–944–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate five (5) new small volume customer delivery points to accommodate natural gas deliveries to UtiliCorp United, Inc. (UCU), under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to install and operate these small volume delivery points to accommodate natural gas deliveries for UCU under Northern's existing transportation rate schedules. It is said that the estimated total volumes proposed to be delivered to UCU at the proposed new delivery points are expected to result in an increase in Northern's peak day deliveries of approximately 49 MMBtu per day and 5,123 MMBtu on an annual basis.

Northern states further that the estimated cost to install the delivery points is $10,975. UCU, it is said, would reimburse Northern for the cost to install the facilities.

Comment date: July 10, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Southern Natural Gas Company

[Docket No. CP95–505–000]

Take notice that on May 19, 1995, Southern Natural Gas Company (''Southern'') filed in the above-captioned docket an application pursuant to the provisions of Section 7 of the Natural Gas Act (''NGA''), as amended, and pursuant to the Federal Energy Regulatory Commission's (''Commission'') Regulations under the NGA for a certificate of public convenience and necessity authorizing the construction, installation, modification and operation of compressor stations, meter stations and related appurtenant facilities, more fully set forth in the application which is on file with the Commission and open to public inspection.

In order to provide incremental firm transportation services totaling 26,810 Mcf per day for fifteen (15) customers on Southern's system in Alabama, Georgia and Tennessee, Southern requests authorization to (1) construct and install a new compressor station consisting of a turbine compressor, ISO-rated at 5,680 horsepower, to be located in Tuscaloosa and Jefferson Counties, Alabama, at or around mile post 286 on Southern's north pipeline system, (2) install compressor cylinder unloaders at its Tarrant Compressor Station in Jefferson County, Alabama, (3) install an additional turbine compressor unit, ISO-rated at 1,452 horsepower, at Southern's existing Pell City Compressor Station in St. Clair County, Alabama, and (4) uprate an existing turbine compressor engine at Southern's DeArmanville Compressor Station in Calhoun County, Alabama, from 1,080 rated horsepower to 1,200 ISO-rated horsepower. In addition, Southern will uprate the pressure at one meter station serving one of the customers in this expansion project and uprate the pressure of its Gadsden Branch Line to accommodate the increased firm contract quantities of four other customers. The total cost of these facilities is estimated to be $13,055,800.

Southern requests Commission approval of the application by no later than May 1, 1996, so that the facilities will be in service to provide the additional firm transportation service by November 1, 1996.

Comment date: June 14, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–13227 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–500–000, et al.]

Southern Natural Gas Company, et al.; Natural Gas Certificate Filings

May 23, 1995.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP95–500–000]

Take notice that on May 15, 1995, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP95–500–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of certain compression facilities and related pipeline interconnection, measurement, and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that the proposed facilities will provide the capacity needed to perform firm transportation service on its pipeline system in its production area south of its Franklinton Compressor Station. It is stated that Southern has an extensive supply system in the offshore Louisiana area and receives approximately 900,000 Mcf per day (Mcdf) or nearly 60 percent of its annual throughput from the ''east leg'' of its South Louisiana supply system that accesses the Main Pass, Viosca Knoll and Mississippi Canyon areas. Southern contends that its efforts to connect new gas supplies in this area and increase throughput have been hampered recently as a result of capacity constraints which exist at Southern's Toca Compressor Station. If it is unable to increase its capacity to move gas from the offshore areas, Southern states that the markets and customers served by Southern's system will not have the opportunity to gain access to the significant number of new sources of supply announced and under development in this area.

Southern states that its recent gas supply attachment efforts have been focused on supply prospects which are near Southern's existing facilities. It is stated that a large number of such prospects are located in the offshore Louisiana are upstream of Southern's Toca Compressor Station. Southern states that its supply system in south Louisiana has two separate main lines, the ''east Leg'' which extends in to the Main Pass area and the ''west leg'' which extends from the Franklinton Compressor Station to the Shadyside Compressor Station. It is stated that the ''west leg'' has traditionally received gas from interconnections with other interstate pipelines, and supply prospects in the area are limited. Therefore, Southern states that its ''east leg'' upstream of the Toca Compressor Station has experienced the most activity in connecting new gas supplies. It is stated that gas supply prospects in this area are believed to be substantial. Southern states that Exhibit Z to its application contains a map and a list of known prospects in the vicinity of Southern's existing facilities which could be attached either through jurisdictional pipeline extensions or through nonjurisdictional gathering lines to Southern's system. While the potential of many of these prospects is still emerging, Southern believes that the substantial financial expenditures by producers and technological advances in the development of deepwater prospects ensure that the expansion of Southern's facilities to provide access to downstream markets from this supply area is necessary. It is stated that the gas supply prospects listed in Exhibit Z are estimated to contain over 2 Tcf of reserves which could be attached to Southern's system. Southern also believes that the location of these prospects make them the most economical gas supplies available to Southern's system in the near term and foreseeable future. However, in order to compete with other pipelines for these shippers and customers, Southern states that it must expand its existing capacity at Toca to enable these supplies to flow into downstream markets.

It is stated that prior to the recent industry restructuring under Order No. 636, pipelines generally constructed gas supply facilities and included the cost of the facilities in future rate filings on a rolled-in basis. In a post-636 environment, Southern states that the issue of who should bear the financial responsibility for this type of project is more complicated. It is stated that this expansion project is not a traditional

market area expansion. Southern states that this expansion is an enhancement of its current facilities to enable Southern to transport an additional 140 MMcfd through its Toca Compressor Station, which is currently operated at or near full capacity. Southern contends that it has determined that the gas supply is available and has identified the facilities modifications required to relieve its system bottleneck at Toca. According to Southern, the major unresolved issue in the post-636 environment is which industry segment should initially pay the cost of this type of system enhancement. Southern states that the distribution segment of the industry believes that producers should contribute to the cost of expanding facilities in order to make their gas supplies available to the market. It is stated that producers have taken the lead in constructing facilities to attach gas supply to the existing pipeline infrastructure but do not believe that they should bear the additional cost of expanding jurisdictional pipeline capacity required to move new supplies downstream. At the same time, Southern argues that it would be unfair to expect interstate pipelines to make substantial investments in new facilities without an opportunity to earn a reasonable return on their investments.

To strike an appropriate balance, Southern states that its proposal is an effort to allocate among the stakeholders the cost of this expansion project that benefits the system as a whole. It is stated that the cost sharing proposal represents a reasonable sharing—between the producers for the first 10 years and the transportation customers thereafter—of the costs required to expand Southern's production area capacity. By adding additional compression at its Toca Compressor Station, Southern states that it will increase its capacity to transport gas supplies through Toca by 140 MMcfd. In addition, Southern submits that it will require, as part of the transportation agreement, a commitment from the producers to attach 150 Bcf of new reserves for every 50 MMcfd of Transportation Demand, or approximately 400 BCF of additional reserves to Southern's system. Based upon extensive discussions with producers that have prospects in the areas near Southern's supply system and with Southern's transportation customers, Southern believes that an expansion of its Toca Compressor Station as proposed would benefit the system as a whole and is in the public interest.

It is stated that producers would benefit from obtaining firm transportation service in Southern's production area at a competitive rate. With firm service to the interconnections Southern has with other interstate pipelines in this area, Southern contends that the producers will have assured access to a substantial portion of the natural gas markets in the eastern United States. It is stated that they can elect to sell any of the new gas supplies they connect to the Southern system to markets served by the Southern system, and in such case, those gas supplies would likely be transported under the purchaser's firm and/or interruptible transportation service agreements.

Southern states that the requirement that producers commit to attach new reserves to the Southern system provides a substantial benefit to Southern's firm and interruptible transportation customers. It is stated that they will have the opportunity to compete for these new sources of supply without incurring, under Southern's proposed rate treatment, any increase in their transportation costs as a result of the construction of the facilities for an initial 10-year period. Whether these new supplies are transported in the production area under one of the new 10 year service agreements or to a market on the Southern system, Southern submits that the proposed expansion of the Toca Compressor Station will eliminate a capacity constraint and enable an additional 140 MMcfd to flow into the Southern system via the ''east leg''. It is stated that this increase in the ''east leg'', however, will not cause an increase in capacity on Southern's main line.

Southern requests that the Commission act on its request in two steps. First, Southern requests that the Commission issue an initial determination that the construction and operation of the proposed facilities to provide capacity necessary for the performance of firm production area transportation services on the terms and conditions described in the application are required by the present or future public convenience and necessity. Southern states that it is willing to accept an at-risk condition in the initial determination because its application does not include the requisite showing of market demand. Second, after it has submitted executed Firm Transportation Service Agreements for 100 percent of the additional capacity containing the terms and conditions described herein and after completion of the environmental review of the proposed facilities, Southern requests that the Commission issue an order adopting the initial decision as its final action in this proceeding and removing the at-risk condition.

Comment date: June 13, 1995, in accordance with Standard Paragraph F at the end of this notice.

2. ANR Storage Company

[Docket No. CP95–504–000]

Take notice that on May 18, 1995, ANR Storage Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP95–504–000, pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and §§ 157.7 and 157.18 of the Commission's Regulations thereunder, an application requesting permission and approval for abandonment of storage service performed for United Cities Gas Company (United Cities), all as more fully set forth in the application on file with the Commission.

ANR states that it is requesting authorization for retroactive abandonment of storage service that it provides for United Cities under Rate Schedule X–6 and contained in Original Volume No. 2 of its FERC Gas Tariff. This service was authorized in Docket No. CP79–453–000. ANR requests the abandonment of Rate Schedule X–6 effective April 1, 1995, the date of the termination agreement between ANR and United Cities. ANR further states that at United Cities' request, commencing April 1, 1995, this service would be provided under ANR's FERC Gas Tariff, Original Volume No. 1.

ANR states that no facilities are proposed to be abandoned.

Comment date: June 13, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

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

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

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–13228 Filed 5–30–95; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5212–8]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Approval of an Application for Certification of Equipment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Agency approval of an application for equipment certification.

SUMMARY: The Agency received an application dated August 2, 1994 from the Engelhard Corporation (Engelhard) with principal place of business at 101 Wood Avenue, Iselin, New Jersey for certification of urban bus retrofit/rebuild equipment pursuant to 40 CFR 85.1401–85.1415. On September 16, 1994 EPA published notification that the application had been received and made the application available for public review and comment for a period of 45 days (59 FR 47581). EPA has completed its review of this application and the Director of the Manufacturers Operations Division has determined that it meets all the requirements for certification. Accordingly, EPA approves the certification of this equipment effective May 31, 1995.

The candidate equipment provides a 25 percent or greater reduction in emissions of particulate matter (PM) for certain petroleum fueled diesel engines relative to the original engine configuration and on engines that have been retrofit/rebuilt with certified new rebuild kits that do not include aftertreatment devices. In addition, this equipment will be offered to all parties for $2,151 or less (2,000 or less in 1992 dollars). The certification of this equipment triggers requirements for all operators utilizing Program 1 that have engines in their fleet that are covered by this certification.

ADDRESSES: The Engelhard application, as well as other materials specifically relevant to it, are contained in Public Docket A–93–42, entitled ''Certification of Urban Bus Retrofit/Rebuild Equipment''. This docket is located in room M–1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Docket items may be inspected from 8:00 a.m. until 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by the Agency for copying docket materials.

DATES: The date of this document May 31, 1995 is the official certification date for this application. The equipment is immediately available for installation.

FOR FURTHER INFORMATION CONTACT: Anthony Erb, Technical Support Branch, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Telephone: (202) 233–9259.

SUPPLEMENTARY INFORMATION:

I. Background

On August 2, 1994 Engelhard submitted an application under EPA's Urban Bus/Retrofit program [1] for certification of a catalytic converter muffler (CCM) for use on 2-cycle and 4-cycle petroleum fueled diesel urban bus engines for 1993 and earlier model years. Engelhard has since withdrawn the 4-cycle engines from consideration pending development of additional test data.

The CCM functions as a catalytic converter and a muffler. It takes the place of the original muffler in the engine exhaust system. Engelhard documented that the candidate equipment provides a 25 percent or greater reduction in emissions of particulate matter (PM) for petroleum fueled diesel heavy-duty urban bus engines as listed in Table A.

TABLE A. CERTIFICATION LEVELS

Engine model	Model year	PM level with standard rebuild and addition of CCM	Code	Family designation
DDC 6V92TA MUI	1979–1987	[1] .38	ALL	ALL
DDC 6V92TA MUI	1988–1989	.22	ALL	ALL
DDC 6V92TA MUI	1979–1989	[2] .18	ALL	ALL
DDC 6V92TA DDEC I	1986–1989	.23	ALL	ALL
DDC 6V92TA DDEC II	1988–1991	.23	ALL	ALL
	1992	.19	ALL	ALL

[1] EPA promulgated the Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses on April 23, 1993 (58 FR 21359). This final rule established the provisions for an urban bus retrofit/rebuild program as required by section 219(d) of the Clean Air Act Amendments (CAAA) of 1990.

TABLE A. CERTIFICATION LEVELS—Continued

Engine model	Model year	PM level with standard rebuild and addition of CCM	Code	Family designation
	1993	.19	ALL	ALL
DDC 6V71N	1973–1989	.38	ALL	ALL
DDC 6V71T	1985–1986	.38	ALL	ALL
DDC 8V71N	1973–1984	.38	ALL	ALL
DDC 6L71TA	1990	.44	ALL	ALL
	1988–1989	.23	ALL	ALL
DDC 6L71TA DDEC	1990–1991	.23	ALL	ALL
DDC–8V–92TA	1979–1987	.40	ALL	8V–92TA
	1988	.29	ALL	ALL
DDC–8V–92TA–DD	1988	.31	ALL	8V–92TA–DDEC II
DDC–8V–92TA	1989	.35	9E70	KDD0736FW8 9
DDC–8V–92TA	1989	.29	9A90	KDD0736FW8 9
DDC–8V–92TA	1989	.26	9G85	KDD0736FW8 9
DDC–8V–92TA–DDEC	1989	.31	1A	KDD0736FZH 4
DDC–8V–92TA	1990	.35	9E70	LDD0736FAH 9
DDC–8V–92TA–DDEC	1990	.37	1A	LDD0736FZH 3
DDC–8V–92TA–DDEC	1991	.19	1A OR 5A	MDD0736FZH 2
DDC–8V–92TA	1992–1993	.16	1D	NDD0736FZH 1 & PDD0736FZH X
DDC–8V–92TA–DDEC	1992–1993	.22	6A	NDD0736FZH 1 & PDD0736FZH X
DDC–8V–92TA–DDEC	1992–1993	.15	5A	NDD0736FZH 1 & PDD0736FZH X
DDC–8V–92TA–DDEC	1992–1993	.19	1A	NDD0736FZH 1 & PDD0736FZH X

[1] To attain these levels of PM reduction engines must be rebuilt to original manufacturers specifications, or in cases where the operator finds the engines meet certain performance specifications as stated by Engelhard in the instructions to purchasers of the CCM kit, rebuild of the engine in order to claim the listed PM reduction would not be required. This applies to all engines listed in the table with the exception of those covered by footnote 2.

[2] If the CCM is installed on these engines after rebuild using the ''Engelhard Emission Rebuild/Retrofit Kit'' in conjunction with the CCM, the emission level certified to by Engelhard is 0.18 g/bhp-hr PM.

Emission test results supplied by Engelhard in the application are shown in Table B. The test data show a greater than 25% reduction in PM. Hydrocarbon (HC), carbon monoxide (CO), oxides of nitrogen (NO_x) and smoke emissions were within the applicable emission standards with the CCM installed.

TABLE B.—CERTIFICATION EMISSION TEST RESULTS (GM/BHP–HR)

	Baseline engine before rebuild	Baseline engine before rebuild with catalyst	Baseline rebuilt engine	Rebuilt engine with catalyst
HC	1.19	0.64	0.48	0.24
CO	2.53	1.32	1.53	1.00
NO_X	9.55	9.70	10.31	10.46
PM	0.87	0.51	0.21	0.15
Smoke Test	.....	.....	.....	.....
Accel	.....	.....	.....	6.0%
Lug	.....	.....	.....	3.4%
Peak	.....	.....	.....	7.6%

Urban bus operators who choose to comply with Program 1 will be required to use this equipment (or other equipment certified in the meantime) beginning six months after the date of this certification approval. Urban bus operators who choose to comply with Program 2 and use the Engelhard equipment will use the PM emissions values from Table A when calculating their average fleet PM level.

The emission levels of the Engelhard rebuild kit will be used to modify the Program 2 post rebuild levels in July 1996.

II. Summary and Analysis of Comments

EPA received a variety of comments on the Engelhard application during the comment period. The comments generally fall into the areas of equipment effects and design, durability and cost. Copies of the original comments are to be found in EPA Docket A–93–42.

An abbreviated summary of the major comments is provided below. Additional discussion of comments for this decision can be found in the Final Decision Document for the Engelhard Application #1 (FDDEA1) which has been placed in Docket A–93–42. A limited number of copies of the FDDEA1 are also available form the contact person listed above (see **FOR FURTHER INFORMATION CONTACT**).

The most frequently raised concern among commenters was the effect of the

CCM on engine backpressure and the effect the backpressure could have on the remaining life of the engine.

Backpressure with the CCM installed will generally be higher than the backpressure with the original muffler. However, Engelhard has designed the CCM to ensure that the engine manufacturer's maximum allowable backpressure will not be exceeded for any engine/exhaust combination. Since backpressure will remain below the manufacturer's allowable limit, EPA does not believe that engine life will be diminished as a result of installing a CCM. Furthermore, Engelhard has recently reconfigured the catalyst that will be marketed under this program to provide a lower backpressure as compared to the catalyst used in the certification test.

Catalyst sizing, packaging and installation applicability were raised as issues by several commenters. Specifically, commenters questioned whether the catalyst would be adequately packaged to fit the wide range of engines and bus models, and whether proper installation and mounting hardware would be available for each combination of bus /engine.

Clear instructions and proper installation for each bus/engine combination will be required to ensure proper operation of the CCM. Engelhard has designed specific installation instructions and hardware for most applications already. The CCM takes the place of the muffler in the exhaust system and each kit will contain all components necessary to complete the installation. Engelhard continues to work with operators to develop appropriate hardware and packaging for specific applications.

The last major group of comments centered around life cycle cost of the CCM. One commenter proposed that field data be collected to support fuel economy impact claims contained in the application for certification. Another commenter noted that operators might use the equipment beyond the 150,000 mile useful life, and questioned how the costs associated with use beyond 150,000 miles are accounted for in the life cycle cost.

Regarding field data to demonstrate fuel economy claims, the regulations do not require that life cycle fuel cost be calculated using field data. At the time of application for certification, a certifier that is applying for certification within life cycle cost limitations must provide information on the fuel economy impact of rebuild/retrofit equipment. Engelhard provided brake-specific fuel consumption (BSFC) data from transient tests performed on a baseline engine and on an engine equipped with a CCM. This data shows the BSFC difference between these tests to be within normal test to test variability, and EPA does not find that this equipment will have an impact on fuel economy.

Regarding the second comment, operators may indeed continue to use certified equipment beyond the statutory useful-life of 150,000 miles. However, for the purpose of calculating life cycle costs, only those costs incurred within the useful-life are relevant. Operators who operate equipment beyond the useful-life are responsible for costs to maintain the equipment in proper operating condition, and assume in-use emissions performance liability.

III. Certification Approval

The Agency has reviewed this application, along with comments received from the interested parties, and finds that this application meets the requirements for certification under the Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (40 CFR 85.1401 and 85.1415). Thus, the Agency hereby approves the certification of this equipment.

IV. Operator Requirements and Responsibilities

Operators who have chosen to comply with Program 1 will be required to utilize this equipment for any engines that are listed in Table A that undergo rebuild on or after December 1, 1995. Under Program 2, this equipment is immediately available to operators for use and those who use this certified kit may claim the PM emissions reduction as stated in Table A when calculating their Fleet Level Attained.

As stated in the regulations, operators should maintain records for each engine in their fleet to demonstrate that they are in compliance with either program 1 or program 2 beginning in January 1, 1995. These records include purchase records, receipts, and part numbers for the parts and components used in the rebuilding of urban bus engines.

Dated: May 10, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–13246 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–62145; FRL–4947–6]

Instruction Manual on Interim Controls and the Operation and Maintenance of Lead-Based Paint for Abatement Workers and Maintenance Personnel; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for preproposals.

SUMMARY: EPA issued a proposed rule *Lead: Requirements for Lead-Based Paint Activities* on September 2, 1994. The objective of the proposed rule is to provide standards for the training of a workforce qualified to assist in the evaluation and reduction of hazards associated with lead-based paint. To further the goal of improved training for the workforce engaged in lead-based paint activities, the U.S. Department of Housing and Urban Development (HUD) has provided funds for the development of a training curriculum and an accompanying video on interim controls and operations and maintenance for lead-based paint. HUD has transferred these funds to EPA for the management of this project. EPA is requesting the submission of preproposals from qualified organizations that are interested in developing a training course and a video on these subjects. This notice describes the eligibility and criteria for the selection of preproposals.

DATES: All preproposals must be submitted to EPA by June 30, 1995.

ADDRESSES: Preproposals should be sent to the following address: Betty Weiner, Chemical Management Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Betty Weiner at (202) 260–2924 or write to the address listed under the ADDRESSES unit.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 2, 1994 (59 FR 45872), EPA issued a proposed rule regarding regulations governing lead-based paint activities. The purpose of this document is to announce the availability of funds to be administered by EPA in the form of a cooperative agreement with an organization with demonstrated experience in lead-based paint training activities. Any nonprofit organization with such experience is eligible to apply. These funds are to be used for the development of a 1–day course in interim controls for lead-based paint and routine maintenance activities. The basic elements of interim controls are: paint stabilization, dust

removal, treatment of friction and impact surfaces, and soil interim controls. The course should also introduce the worker to the importance of monitoring and reevaluation, and the role of maintenance in preserving the integrity of interim controls during routine activities and minimizing contamination of housing. The course should include a worker's manual and an instructor's manual as well as a video consisting of work demonstrations accompanied by explanatory narration. The course will be used to train both certified and noncertified individuals involved in the control of lead-based paint that is not undergoing removal.

Model courses in lead-based paint activities have already been developed or are in the process of development for the five disciplines specified in the regulations. These courses are: inspector technician, inspector/risk assessor, supervisor, planner/project designer, and lead abatement worker. Required course content for four of the five disciplines includes instruction in methods of risk reduction. In addition, inspector/risk assessors must learn how to develop an interim control plan and the minimum training curricula requirements for the planner/project designer course includes instruction in operation and maintenance planning. Because of the hazards to workers, residents and the environment associated with lead-based paint, training of specialists in the field and maintenance workers should include the most up-to-date methods of control to assure that exposure will be minimized in areas where abatement is not initially contemplated.

I. Administrative Requirements

This program is subject to matching share requirements. Awards shall be given only to applicants who can fund at least 5 percent of their programs from non-Federal sources, excluding in-kind contributions. (In-kind contributions are defined as the value of a non-cash contribution to meet a recipient's cost-sharing requirements. An in-kind contribution may consist of charges for real property and equipment, or the value of goods and services directly benefiting the EPA-funded project.) The recipient's matching share may exceed 5 percent.

The applicant must also provide proof of the organization's not-for-profit status.

II. Evaluation Process and Criteria

Preproposals submitted for the cooperative agreement solicited in this notice will be evaluated on a competitive basis by a review panel composed of EPA and HUD staff members. The following factors will be considered in the evaluations of the preproposals.

A. Program Design

The course length should be approximately 8 hours, focusing on teaching workers the fundamentals of appropriate interim controls as well as hands-on demonstrations of the application and maintenance of these controls.

Preproposals should be developed in conformance with the HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.* Another relevant source soon to be available is a document currently under development by the National Institute of Building Sciences titled *Lead-Based Paint Operations and Maintenance Work Practices Manual.*

B. Program Experience

The applicant must include the following organizational information:

1. Experience with lead-related issues with an emphasis on lead-based paint.

2. Experience with the development of adult education courses particularly for workers with limited education or with language difficulties.

3. A summary of any lead-related courses taught and a description of the materials used to teach those courses.

4. Experience with providing hands-on training.

5. Qualifications of key personnel.

C. Budget

A detailed budget should be included that specifies the amount of money proposed for each element of the course curriculum as well as the non-federal share of the budget (at least 5 percent of the total excluding in-kind contributions).

III. Application Procedures and Notification of Selection

Preproposals are due by June 30, 1995. Preproposals should be approximately 10 pages in length and 7 copies of the proposal should be provided. Notice of selection as a possible award recipient will not constitute approval of the final proposal as submitted. Prior to the actual awarding of the cooperative agreement, representatives of the potential recipient and EPA will begin negotiations concerning various components of the program, such as funding levels and course materials. The project budget is anticipated to be in the range of $200,000 to $400,000.

Dated: May 10, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–13266 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5213–2]

Science Advisory Board; Notification of Two Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

1. Research Strategies Advisory Committee (RSAC)

The Research Strategies Advisory Committee (RSAC) will meet on June 15–16, 1995, at the Holiday Inn, 550 C Street SW., Washington, DC. The meeting will begin at 8:30 a.m. and end no later than 5:00 p.m. The RSAC routinely reviews broad issues related to the planning and management of research activities within the Agency. At this meeting, RSAC will receive briefings from the Office of Research and Development (ORD) on its process for developing priorities for the FY 1997 Budget and the Research Priorities that the Agency will consider in the formulation of that Budget. Based on these presentations, RSAC may offer recommendations to the Agency on the process, the overall directions of the research and the specific priorities that the Agency is currently considering. In addition, RSAC will discuss its own mission and function statement and criteria that may be used to develop priorities for research.

Members of the public desiring additional information about the meeting, including an agenda (after May 30), should contact Ms. Mary Winston, Staff Secretary, Science Advisory Board (1400F), U.S. EPA, 401 M Street SW., Washington, DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or to the Designated Federal Official, Dr. Edward Bender at (202) 260–2562, or

via the INTERNET at: Bender.Edward@EPAMAIL.EPA.GOV.

Anyone wishing to submit written comments should forward at least 35 copies to Dr. Bender no later than June 9th for distribution to the Committee and the interested public. Members of the public wishing to make an oral presentation at the meeting must contact Dr. Bender by noon on the same deadline in order to have time reserved on the agenda. See below for additional information on providing comments to the SAB.

2. Environmental Engineering Committee (EEC)

The Environmental Engineering Committee (EEC) will meet June 22–23, 1995 at the One Washington Circle Hotel, One Washington Circle NW., Washington, DC. The meeting will begin each day at 8:30 a.m. and end no later than 6:00 p.m.

The Committee will consider four draft Science Advisory Board subcommittee reports: (1) A review of the Office of Pollution Prevention and Toxics draft Use Cluster Scoring System, (2) the OSWER Exposure Model Subcommittee review of EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) and the Finite Source Methodology, (3) the Hazardous Air Pollutant Monitoring Subcommittee review of a proposed research program on continuous emissions monitoring, and (4) the Innovative Technology Subcommittee's review of the Environmental Technology Innovation and Commercialization Enhancement Program (EnTICE), a technology verification program. Please contact one of the Committee Staff members listed below for availability of these draft documents. The Committee also plans to begin preparation of a commentary on modeling, and will discuss review options and priorities for future meetings.

Any member of the public wishing further information, such as a proposed agenda, should contact Mrs. Dorothy Clark, Staff Secretary, Science Advisory Board (1400F), U.S. EPA, Washington, DC 20460, telephone (202) 260–6552 or fax (202) 260–7118. Written comments of any length (at least 35 copies) may be provided up until the meeting. Members of the public who wish to make a brief oral presentation should contact the Designated Federal Official, Mrs. Kathleen Conway by phone at (202) 260–2558, or INTERNET at: CONW-AY.KATHLEEN@epamail.epa.gov, no later than noon (eastern time), Monday, June 19, in order to have time reserved on the agenda .

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Requests for public comment time should identify the name of the individual who will make the presentation, requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalk board, etc.), and an outline of the issues to be addressed. At least 35 copies of the oral presentation (including overhead slides) must be provided to the SAB no later than the meeting. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: May 18, 1995.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–13244 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–30388; FRL–4956–6]

Mycogen Corp.; Application To Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 30, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30388] and the file symbol (53219–RG) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@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 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 [OPP–30388] No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Hollis, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8733; e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Mycogen Corporation, 4980 Carroll Canyon Road, San Diego, CA 92121, to register the pesticide product MYX 910 Bioinsecticide (EPA File Symbol 53219–RG), containing the active ingredient *Bacillus thuringiensis* variety *japonensis* strain *buibui* at 13 percent, an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. This product is for the control of larvae of soil dwelling beetles on or in turfgrass, landscape ornamentals,

soil, transporation facilities, and interior plantscapes. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30388] (including comments and data submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@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 notice, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: May 22, 1995.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–13142 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30387; FRL–4956–1]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 30, 1995.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30387] and the registration/file number, attention Product Manager (PM) named in each application at the following address: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@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 [OPP–30387]. No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM 25 Robert Taylor,	Rm. 241, CM #2 (703–305–6800).	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202
PM 10 Richard Keigwin,	Rm. 713, CM #2 (703–305–7618).	-Do-

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File Symbol: 264–LLL. Applicant: Rhone-Poulenc AG Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. Product name: Regent 1.5G Insecticide. Insecticide. Active ingredient: Fipronil 5-amino-1-(2,6-dichloro-4-(trifluoromethyl) phenyl)-4-((1,R,S)-(trifluoromethyl)sulfinyl)-1 H-pyrazole-3-carbonitrile at 1.5 percent. Proposed classification/Use: None. For use on corn to control northern and western

corn, rootworm larvae, and wireworms. (PM 10)

2. File Symbol: 264–LLU. Applicant: Rhone-Poulenc Co. Product name: Fipronil Technical. Insecticide. Active ingredient: Fipronil 5-amino-1-(2,6-dichloro-4-(trifluoromethyl) phenyl)-4-((1,R,S)-(trifluoromethyl)sulfinyl)-1 H-pyrazole-3-carbonitrile at 96.5 percent. Proposed classification/Use: None. For formulation into an insecticide. (PM 10)

3. File Symbol: 264–LLN. Applicant: Rhone-Poulenc Co. Product name: Chipco Gauntlet 0.1G. Insecticide. Active ingredient: Fipronil 5-amino-1-(2,6-dichloro-4-(trifluoromethyl) phenyl)-4-((1,R,S)-(trifluoromethyl)sulfinyl)-1 H-pyrazole-3-carbonitrile at 0.1 percent. Proposed classification/Use: None. For use on golf and commercial turfgrass and to control mole crickets in turfgrass. (PM 10)

4. File Symbol: 352–LAO. Applicant: E.I. duPont de Nemours and Co. Product name: Upbeet Herbicide. Herbicide. Active ingredient: Triflusulfuron methyl methyl 2-[-[-[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]carbonyl]amino[sulfonyl]-3-methylbenzoate at 50 percent. Proposed classification/Use: None. For selective postemergence control of broadleaf and grass weeds in sugar beets. (PM 25)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30387] (including comments and data submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@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 notice, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: May 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–13140 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[PP 3G4161/T673; FRL 4948–8]

Triflusulfuron Methyl; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide triflusulfuron methyl in or on certain raw agricultural commodities. These temporary tolerances were requested by E.I. DuPont de Nemours & Company, Inc.

DATES: These temporary tolerances expire September 30, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: E.I. DuPont de Nemours & Company, Inc., Agricultural Products, Walkers Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038, has requested in pesticide petition (PP) 3G4161, the establishment of temporary tolerances for residues of the herbicide triflusulfuron methyl (methyl-2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]carbonyl]amino]sulfonyl]-3-methylbenzoate) in or on the raw agricultural commodities sugar beet roots and tops at 0.05 part per million (ppm). These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 352–EUP–160, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. DuPont must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire September 30, 1997. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

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

Authority: 21 U.S.C. 346a(j).

List of Subjects

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

Dated: May 22, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95– 13271 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[PF–627; FRL–4956–9]

Troy Biosciences, Inc.; Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from Troy Biosciences, Inc., a petition to establish a regulation to exempt from the requirement of a tolerance residues of the insecticide *Beauvaria bassiana* ATCC 74040, in or on all raw agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@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 [PF-627]. No Confidential Business Information (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 below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM-90), Biopesticides and Pollution Prevention Division (7501W), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, CS#1, 2805 Jefferson Davis Hwy., Arlington, VA, (703)-308-8260; e-mail: hutton.phil@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from Troy Biosciences, Inc., 2620 North 37th Drive, Phoenix, AZ 85009, the filing of a pesticide petition, PP 5F4483, pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA), proposing that 40 CFR part 180 be amended by establishing a regulation to exempt from the requirement of a tolerance residues of the insecticide *Beauvaria bassiana* ATCC 74040 in or on all raw agricultural commodities.

A record has been established for this rulemaking under docket number [PF-627] (including any comments and data submitted electronically as described below). 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 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@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.

List of Subjects

Enviornmental protection, Administrative practice and procedure, Agricultual commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 21 U.S.C. 346a and 348.

Dated: May 22, 1995.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–13270 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–44617; FRL–4956–7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on ethyl acetate (CAS No. 141–78–6) submitted pursuant to a testing consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

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: Under 40 CFR 790.60(a)(10), all TSCA section 4 consent orders must contain a statement

that results of testing conducted pursuant to testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for ethyl acetate were submitted by The Chemical Manufacturers Association Oxo Process Panel pursuant to a testing consent order at 40 CFR 799.5000. They were received by EPA on April 5, 1995. The submission includes a final report entitled ''Ethyl Acetate: An Acute Vapor Inhalation Neurotoxicity Study in the Rat.'' This chemical is used as a solvent for lacquers and enamel coatings, as a solvent for inks, as a plastics solvent, and in chemical synthesis.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44617). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: May 22, 1995.

Charles M. Auer,

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

[FR Doc. 95–13267 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

[OPPT–62146; FRL–4952–1]

Accredited Training Programs Under the Asbestos Hazard Emergency Response Act (AHERA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: National Directory of AHERA Accredited Courses (NDAAC); notice of availability of new edition.

SUMMARY: Effective May 31, 1995, the EPA is announcing the availability of a new edition of its National Directory of AHERA Accredited Courses (NDAAC). This publication, updated quarterly, provides information to the public about training providers and courses approved for accreditation purposes pursuant to the Asbestos Hazard Emergency Response Act (AHERA). As a nationwide listing of approved asbestos training programs and courses, the NDAAC has replaced the similar listing which was formerly published quarterly by EPA in the **Federal Register**. The May 31, 1995, directory, which supersedes the version released on February 28, 1995, may be ordered through the NDAAC Clearinghouse along with a variety of related reports.

ADDRESSES: Parties interested in receiving a brochure which describes the national directory and provides ordering information should contact: EPA AHERA - NDAAC, c/o VISTA Computer Services, 3rd Floor, 6430 Rockledge Drive, Bethesda, MD 20817, Telephone: 1–800–462–6706.

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: Pursuant to AHERA, as amended by the Asbestos School Hazard Abatement Reauthorization Act (ASHARA), contractors who prepare management plans for schools, inspect for asbestos in schools or public and commercial buildings, or design or conduct response actions with respect to friable asbestos-containing materials in schools of completing prescribed training requirements. EPA therefore maintains a current national listing of AHERA-accredited courses and approved training providers so that this information will be readily available to assist the public accessing these training programs and obtaining the necessary accreditation. This information is also maintained so that the Agency and approved state accreditation and licensing programs will have a reliable means of identifying and verifying the approval status of training courses and organizations.

Previously, EPA had published this listing in the **Federal Register** on a quarterly basis. The last **Federal Register** listing required by law was published on August 30, 1991. EPA recognized the need to continue publication of this document even though the legislative mandate has expired. The NDAAC fulfills the public need for this information while at the same time, it reduces EPA cost and improves the service's capabilities.

List of Subjects

Environmental protection.

Dated: May 18, 1995.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–12896 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011171–004.

Title: P&O Containers/Nedlloyd/Sea-Land Agreement.

Parties: P&O Containers Limited, Nedlloyd Lijnen BV, Sea-Land Service, Inc.

Synopsis: The proposed amendment revises the Membership and Withdrawal provision to allow a party to withdraw as a member upon 24-hours notice. It also complies with the terms of the Settlement Agreement in Docket No. 94–28—*Vessel Sharing Agreements Order to Show Cause.*

Agreement No.: 203–011394–001.

Title: Space Charter and Sailing Agreement Between Orient Overseas Container Line (U.K.) Ltd. and Sea-Land Service, Inc., P&O Containers Ltd. and Nedlloyd Lijnen BV.

Parties: Orient Overseas Container Line (U.K.), P&O Containers Limited, Nedlloyd Lijnen BV, Sea-Land Service, Inc.

Synopsis: The proposed amendment revises the Membership and Withdrawal provision to allow a party to withdraw as a member upon 24-hours notice. It also complies with the terms of the Settlement Agreement in Docket No. 94–28—*Vessel Sharing Agreements Order to Show Cause.* In addition, it also deletes the requirement that the member belong to the applicable Conference.

Agreement No.: 203–011395–001

Title: Space Charter and Sailing Agreement Between A.P. Moller-Maersk Line and P&O Containers Limited, Sea-land Service, Inc. and Nedlloyd Lijnen.

Parties: A.P. Moller-Maersk Line, P&O Containers Limited, Sea-Land Service, Inc., Nedlloyd Lijnen BV.

Synopsis: The proposed amendment revises the Membership and Withdrawal provision to allow a party to withdraw as a member upon 24-hours notice. It also complies with the terms of the Settlement Agreement in Docket No. 94–28—*Vessel Sharing Agreements Order to Show Cause*. In addition, it also deletes the requirement that the member belong to the applicable Conference.

Agreement No.: 203–011396–001

Title: Cooperative Working Agreement Among Orient Overseas Container Line (U.K.) Ltd., A.P. Moller-Maersk Line and Sea-Land Service, Inc., P&O Containers, Ltd., Nedlloyd Lijnen BV.

Parties: Orient Overseas Container Line (U.K.) Ltd., A.P. Moller-Maersk Line, Sea-land Service, Inc., P&O Containers Limited, Nedlloyd Lijnen VB.

Synopsis: The proposed amendment revises the Membership and Withdrawal provision to allow a party to withdraw as a member upon 24-hours notice. It also complies with the terms of the Settlement Agreement in Docket No. 94–28—*Vessel Sharing Agreements Order to Show Cause*. In addition, it deletes the requirement that the member belong to the applicable Conference.

Agreement No.: 232–011501.

Title: Hanjin/Tricon Panama Agreement.

Parties: Hanjin Shipping Co., Ltd. (''Hanjin''), Tricon Parties, Cho Yang Shipping Co. Ltd., DSR-Senator Lines.

Synopsis: The proposed Agreement authorizes Hanjin to charter space from the Tricon parties and for the parties to maintain a fixed day port sailing scheduled in both directions in the trade between U.S. West Coast ports and ports in Panama.

Dated: May 24, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–13174 Filed 5–30–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Carnival Corporation, 3655 NW 87th Avenue, Miami, Florida 33178–2428

Vessel: IMAGINATION

Dated: May 24, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–13173 Filed 5–30–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Ocean Customs Brokers, 8554 Katy Freeway, Suite 123, Houston, TX 77024, Eldon D. Spencer, Sole Proprietor

Atlant (USA), Inc., 5777 West Century Blvd., Los Angeles, CA 90045, Officer: Bolko Kissling, President

Amerstar Shipping Incorporated, 277 Broadway, New York, NY 10007, Officers: Belford Saltos, President, Madukwe E. Ukaegbu, Secretary

International Freight Systems (of Oregon), Inc., d/b/a International Freight Systems, 604 NE 20th Ave., Portland, Oregon 97232, Officers: Robert C. Hansen, President, William D. Woodward, Vice President

Dated: May 24, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–13175 Filed 5–30–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

H. Glenn Barker, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 notice or to the offices of the Board of Governors. Comments must be received not later than June 13, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. H. Glenn Barker, Dunlap, Tennessee; to acquire an additional 5.7 percent, for a total of 28.4 percent, and L. Thomas Austin, Dunlap, Tennessee, to acquire an additional 5.4 percent, for a total of 26.9 percent, of the voting shares of Sequatchie Valley Bancshares, Inc., Dunlap, Tennessee, and thereby indirectly acquire Citizens Tri-County Bank, Dunlap, Tennessee.

Board of Governors of the Federal Reserve System, May 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–13210 Filed 5–30–95; 8:45 am]

BILLING CODE 6210–01–F

The Berens Corporation; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise

noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 1995.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. The Berens Corporation, Houston, Texas; To engage *de novo* through its subsidiary, Berens Credit Corporation, Houston, Texas, in making and arranging loans and other extensions of credit, pursuant to § 225.25(b)(1); and leasing activities, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–13211 Filed 5–30–95; 8:45 am]

BILLING CODE 6210–01–F

Societe Generale; Notice To Engage in Nonbanking Activities

Societe Generale, Paris, France (Notificant), has provided notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire through its subsidiary, FIMAT Futures USA, Inc., Chicago, Illinois (Company), substantially all of the assets of Brody, White & Company, Inc., New York, New York (Brody White). Company currently engages in a variety of futures commission merchant and foreign exchange-related activities. *See Societe Generale*, 80 Federal Reserve Bulletin 649 (1994) (Societe Generale I) and *Societe Generale*, 80 Federal Reserve Bulletin 646 (1994) (Societe Generale II). Upon acquisition of Brody White, Company would expand its activities to include becoming a clearing member of the New York Cotton Exchange, Commodity Exchange, Inc., Financial Exchange, New York Futures Exchange and the Coffee, Sugar & Cocoa Exchange; purchasing and selling through omnibus accounts futures and options on futures on the London Commodity Exchange and Winnipeg Commodity Exchange; and acting as riskless principal in connection with spot, forward and over-the-counter option transactions in the foreign exchange market.

Notificant has stated that upon acquisition of Brody White, Company would continue to provide futures commission merchant execution, clearance and advisory services subject to the same limitations, conditions and commitments relied on by the Board in Societe Generale I, with one exception. In particular, Notificant proposes that Company provide execution, clearance and advisory services to commercial hedger customers with net worths of less than $1 million. The Board previously has relied on commitments that clearing-only services and futures commission merchant services provided with respect to futures and options on futures on nonfinancial commodities would be provided solely to institutional customers, as defined in § 225.2(g) of Regulation Y. Notificant has represented that these customers would not be unsophisticated retail investors. Notificant also has stated that in order to address suitability and credit risk issues, as well as any other possible adverse effects, noninstitutional customers would have to represent in writing that they are engaged in bona fide hedging transactions for purposes of CFTC regulation 1.3(z) (17 CFR 1.3(z)), and Company would have a system in place to detect any unauthorized trading by these customers in commodities other than those as to which hedge margin status has been granted. In addition, there would be an initial credit review process to determine whether a customer's proposed hedging activities are appropriate in light of the customer's net worth and business activities, as well as periodic reviews on actual trading activities in the account. Based on these facts, Notificant maintains that providing the proposed futures commission merchant services to certain noninstitutional customers is so closely related to banking as to be a proper incident thereto.

Notificant also has stated that upon acquisition of Brody White, Company would purchase and sell, on the order of investors as riskless principal, foreign exchange in the spot, forward and over-the-counter option markets. Notificant maintains that the Board previously has determined that purchasing and selling foreign exchange as riskless principal is closely related to banking. *See Banca Commerciale Italiana*, 76 Federal Reserve Bulletin 649 (1990) (BCI). Notificant has stated that Company would provide the proposed riskless principal services in accordance with the limitations, commitments and conditions relied on by the Board in BCI. Notificant also has stated that Company would continue to comply with commitments made to the Board in Societe Generale II that relate to providing foreign exchange execution and advisory services on a combined basis.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company ''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). Notificant maintains that the proposal would not produce any adverse effects. Notificant also maintains that the proposal would lead to increased competition in the relevant markets, better customer service, lower costs and greater efficiency.

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, D.C. 20551, not later than June 30, 1995. Any request for a hearing on this notice must, as required by § 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.

This notice may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, May 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–13212 Filed 5–30–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices; 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 on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6 p.m., June 28, 1995; 8:15 a.m.–3:30 p.m., June 29, 1995.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters to be discussed: The committee will discuss the polio vaccine policy; the approach to developing ACIP vaccine recommendations; hepatitis A vaccine—use in high endemic populations; varicella update; ''Vaccines for Children Program'': Hepatitis A, hepatitis B, varicella; adolescent immunization visit; measles elimination update; vaccine safety update: preference of DTaP for 4th and 5th doses; ACIP participation in the National Vaccine Advisory Committee and the Advisory Commission on Childhood Vaccines Subcommittee on Vaccine Safety; measles vaccine inflammatory bowel disease; large-linked database (LLDB) results; acellular pertussis vaccine trial results; programmatic strategies to increase immunization coverage; pneumococcal conjugate vaccine; harmonization of immunization recommendations; update on progress towards disease elimination goals; ACIP recommendations and package inserts; diphtheria and the New Independent States update: the U.S. contingency plan; electronic updating of ACIP recommendations; an Injury Compensation Program update; and a National Vaccine Program update. Other matters of relevance among the committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact person for more information: Gloria A. Kovach, Committee Management Specialist, CDC (1–B72), 1600 Clifton Road, NE, Mailstop A20, Atlanta, Georgia 30333, telephone 404/639–3851.

Dated: May 24, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–13209 Filed 5–30–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0097]

New Monographs and Revisions of Certain Food Chemicals Codex Monographs; Opportunity for Public Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on pending changes to certain Food Chemicals Codex specifications monographs from the third edition and its four supplements. One new monograph and additions, revisions, and corrections to current monographs for certain substances used as food ingredients are being prepared by the National Academy of Sciences/Institute of Medicine (NAS/IOM) Committee on Food Chemicals Codex (the committee). This material will be published in the fourth edition of the Food Chemicals Codex, which is scheduled for release in March 1996. When the committee completes its review of the comments, it will incorporate any changes that it makes in response to comments in monographs published in supplements to the fourth edition.

DATES: Written comments by August 14, 1995.

ADDRESSES: Submit written comments and supporting data and documentation to the NAS/IOM Committee on Food Chemicals Codex, National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC 20418. Copies of the new monographs and proposed revisions to current monographs may be obtained from NAS (address above) or the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests for copies should specify the monographs desired.

FOR FURTHER INFORMATION CONTACT: Fatima N. Johnson, Committee on Food Chemicals Codex, Food and Nutrition Board, National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC 20418, 202–334–2580; or Paul M. Kuznesof, Center for Food Safety and Applied Nutrition (HFS–247), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–418–3009.

SUPPLEMENTARY INFORMATION: By contract with NAS/IOM, FDA supports the preparation of the Food Chemicals Codex, which is a compendium of specifications for substances used as food ingredients. Before any specifications are included in a Food Chemicals Codex publication, public announcement is made in the **Federal Register**.

FDA previously announced that the committee was considering new monographs and monograph revisions for inclusion in the fourth edition of the Food Chemicals Codex, which NAS/IOM is now preparing. In addition, FDA has given notice and an opportunity for public comment on the policies adopted by the committee for the fourth edition on lead and heavy metals specifications (58 FR 38129, July 15, 1993), and on arsenic specifications (59 FR 11789, March 14, 1994).

The committee will continue to provide the opportunity for public comment on intended changes in monographs by means of **Federal Register** notices before their inclusion in supplements to the fourth edition. Interested parties should submit all suggestions with supporting documentation to the National Academy of Sciences at the above address.

FDA now gives notice that the committee is soliciting comments and information on certain proposed new monographs and revisions to certain additional current monographs. These new monographs and revisions will be published in the fourth edition of the Food Chemicals Codex. The proposed new monographs and revisions to current monographs may be seen at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Because the publication timeframe for the fourth edition, comments on monographs that are the subject of this notice cannot be considered for incorporation in the fourth edition, which is scheduled for release in March 1996, but will be considered for incorporation in supplements to the fourth edition. Copies of the new monographs and proposed revisions to current monographs may be obtained from NAS or the Dockets Management Branch. Requests for copies should be identified with the docket number found in brackets in the heading of this

document and should specify the monographs desired.

FDA emphasizes, however, that it will not consider adopting and incorporating any of the committee's new monographs or monograph revisions into FDA regulations without ample opportunity for public comment. If FDA decides to propose the adoption of new monographs and changes that have received final approval of the committee, it will announce its intention, and provide an opportunity for public comment in the **Federal Register**.

The committee invites comments and suggestions on specifications by all interested parties on the proposed new monographs and revisions of current monographs that follow:

I. Proposed New Monograph

Food Starch, Unmodified

II. Current Monographs to which the Committee Proposes to Make Revisions

Aluminum Potassium Sulfate (Assay, Heavy Metals, Lead)
Aluminum Sulfate (Heavy Metals)
Ammonium Carbonate (Heavy Metals, Sulfur Compounds)
Azodicarbonamide (Assay, Heavy Metals)
Beeswax, White (Heavy Metals)
Beeswax, Yellow (Heavy Metals)
Caffeine (Description, Identification, Assay, Heavy Metals, Lead, Water)
Calcium Acetate (Assay, Heavy Metals, Lead)
Calcium Bromate (Assay, Heavy Metals)
Calcium Chloride (Description, Labeling, Assay, Acid-Insoluble Matter,
Magnesium and Alkali Salts)
Calcium Citrate (Assay, Loss on Drying)
Calcium Hydroxide (Assay, Acid-Insoluble Substances, Heavy Metals, Magnesium and Alkali Salts)
Calcium Oxide (Assay, Acid-Insoluble Substances, Alkalies or Magnesium, Heavy Metals, Lead, Loss on Ignition)
Calcium Propionate (Identification, Assay)
Calcium Saccharin (Assay)
Calcium Sorbate (Lead)
Candelilla Wax (Identification, Heavy Metals)
Carrageenan (Delete monograph from the Food Chemicals Codex)
Castor Oil (Saponification Value, Specific Gravity)
Cellulose Gel (formerly Microcrystalline Cellulose, Description, Identification, Loss on Drying, pH, Water-Soluble Substances)
Chlorine (Assay, Heavy Metals, Moisture and Residue)
Dextrin (Heavy Metals, Lead, pH of Dispersions)
Disodium EDTA (Identification, Assay, Calcium, Nitrilotriacetic Acid)
Erythorbic Acid (Assay, Heavy Metals, Lead, Loss on Drying)
Ethyl Cellulose (Heavy Metals, Lead)
Food Starch, Modified (Numerous Changes)
Fumaric Acid (Identification, Assay, Heavy Metals, Maleic Acid)
Hydrochloric Acid (Numerous Changes)
Hydroxypropyl Cellulose (Heavy Metals, Lead)
Iron, Carbonyl (Arsenic, Lead)
Iron, Electrolytic (Arsenic, Lead)
Iron, Reduced (Arsenic, Lead, Acid-Insoluble Substances)
Isobutylene-Isoprene Copolymer (Identification, Heavy Metals, Total Unsaturation)
Lactic Acid (Labeling, Chloride, Sulfate)
Magnesium Carbonate (Heavy Metals, Acid-Insoluble Substances, Calcium Oxide)
Magnesium Hydroxide (Assay, Calcium Oxide, Heavy Metals, Oxide, Loss on Ignition)
Magnesium Oxide (Assay, Acid-Insoluble Substances, Calcium Oxide, Heavy Metals, Loss on Ignition)
Malic Acid (Identification, Assay, Fumaric and Maleic Acids, Heavy Metals, Lead, Residue on Ignition, Specific Rotation)
Maltodextrin (Labeling, Assay, Protein, Sulfur Dioxide, Total Solids)
Methyl Ethyl Cellulose (Heavy Metals, Lead)
Nisin Preparation (Lead)
Nitrous Oxide (Identification)
Phosphoric Acid (Labeling, Heavy Metals)
Poloxamer 331 (1,4-Dioxane; Ethylene Oxide, Propylene Oxide, and 1,4-Dioxane)
Poloxamer 407 (1,4-Dioxane; Ethylene Oxide, Propylene Oxide, and 1,4-Dioxane)
Polydextrose (Description, Lead, Monomers, Molecular Weight Limit, Residue on Ignition)
Polydextrose Solution (Monomers)
Polyethylene (Identification, Heavy Metals)
Polyethylene Glycols (1,4-Dioxane, Ethylene Glycol and Diethylene Glycol,
Ethylene Oxide, Heavy Metals)
Polysorbate 20 (1,4-Dioxane)
Polysorbate 60 (1,4-Dioxane, Stearic and Palmitic Acids)
Polysorbate 65 (1,4-Dioxane)
Polysorbate 80 (1,4-Dioxane)
Polyvinyl Acetate (Loss on Drying, Heavy Metals, Volatiles)
Polyvinylpolypyrrolidone (Extractable Substances, Soluble Substances, Unsaturation, Water)
Potassium Bromate (Chloride, Heavy Metals, Loss on Drying, Sulfate)
Potassium Hydroxide (Assay, Heavy Metals, Mercury)
Potassium Sorbate (Lead)
Potassium Sulfate (Description, Assay)
Propylene Glycol Alginate (Ash, Esterified Carboxyl Groups, Heavy Metals, Lead, Neutralized Carboxyl Groups)
Rice Bran Wax (Heavy Metals)
Silicon Dioxide (Heavy Metals, Lead, Loss on Drying)
Sodium Carboxymethylcellulose (Heavy Metals, Lead)
Sodium Hydroxide (Assay, Heavy Metals)
Sodium Hydroxide Solution (Labeling, Heavy Metals)
Sodium Metabisulfite (Assay, Heavy Metals, Lead)
Sodium Potassium Tartrate (Assay)
Titanium Dioxide (Identification, Assay, Lead, Water-Soluble Substances)
Vitamin A (Assay)

Interested persons may, on or before August 14, 1995, submit to NAS written comments regarding the monographs listed in this notice. Those wishing to make comments are encouraged to submit supporting data and documentation with their comments. Two copies of any comments are to be submitted. Comments and supporting data or documentation are to be identified with the docket number found in brackets in the heading of this document and should include a statement that the comment is in response to this **Federal Register** notice. NAS will forward a copy of each comment to the Dockets Management Branch (address above). Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 18, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–13204 Filed 5–30–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Office of the Associate Administrator for External Affairs

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register,** Vol. 59, No. 60, pp. 14637–14638, dated Tuesday, March 29, 1994) is amended to reflect changes in the

organizational structure of the Office of the Associate Administrator for Customer Relations and Communications (AACRC). AACRC is being renamed the Office of the Associate Administrator for External Affairs (AAEA) and is being reorganized to more accurately reflect the customer relations and communication areas.

The specific amendments to Part F are as follows:

• Section F.10. (Organization) is amended by deleting F.10.B. in its entirety and replacing it with the following:

B. Office of the Associate Administrator for External Affairs (FC)

1. Office of Media Relations (FCA)
2. Office of Professional Relations (FCB)
3. Office of Beneficiary Relations (FCC)
4. Freedom of Information and Privacy Office (FCE)

• Section F.20.B. (Functions) is amended by deleting the statement and substructure in their entirety and replacing them with the new functional statements. The new functional statements read as follows:

B. Office of the Associate Administrator for External Affairs (FC)

• Advises the Administrator, senior staff, and components on HCFA communications and customer relations' policies, procedures, and programs.

• Promotes an awareness of customer and partner perceptions of HCFA policies and programs and participates in ensuring that HCFA activities meet customer needs and standards of service.

• Promotes an awareness within and outside of HCFA determining the scope and diversity of HCFA's customer base and their needs.

• Develops and maintains channels of communication and mechanisms for feedback between HCFA and its customers and partners. Develops, coordinates, and advises the Administrator, senior staff, and components on outreach, customer service, and survey strategies, policies, and procedures.

• Directs and coordinates a coherent communications strategy with HCFA leadership and components and ensures an effective implementation of this strategy. Directs communication of HCFA policies and initiatives to the media, advocacy groups, and provider, professional, and educational organizations and institutions.

• Designs, conducts, and advises the Administrator, senior staff, and components on information campaigns and initiatives to educate customers and partners on HCFA policies, programs, and services. Advises and participates in the production of customer-oriented print and multi-media materials.

• Manages the interaction of the Administrator, senior staff, and components with the Department, other government entities, the media, and external parties interested in HCFA's public affairs' programs and activities (including interviews, public appearances, and speeches).

• Directs and advises the Administrator, senior staff, and components on the requirements, policies, and administration of the Freedom of Information Act and Privacy Act.

1. Office of Media Relations (FCA)

• Serves as the principal spokesperson for HCFA to the news media.

• Prepares and edits appropriate materials about HCFA, its policies, actions and findings, and provides them to the public through the print and broadcast media; develops and directs public information and media relations' strategies for HCFA.

• Provides consultation, advice and training to HCFA senior staff with respect to relations with the news media.

• Responds to inquires from a broad variety of news media including major newspapers, national television and radio networks, national news magazines, local newspapers and radio and television stations, publications directed toward HCFA's beneficiary populations and newsletters serving the health care industry.

• Arranges formal interviews for journalists with the HCFA Administrator or other appropriate senior HCFA staff; identifies for interviewees the issues to be addressed, and prepares or obtains background materials as needed.

• Maintains a broad based knowledge of HCFA's structure, responsibilities, mission, goals, programs and initiatives in order to provide or arrange for rapid and accurate response to news media needs.

• For significant HCFA initiatives, issues media advisories and arranges press conferences as appropriate; coordinates material and personnel as necessary.

2. Office of Professional Relations (FCB)

• Serves as the focal point in HCFA for external health care professional, institutional, and related organizations.

• Provides consultation and technical assistance to organizations and agencies representing the health professional, business, and academic communities.

• Contributes to the development of HCFA policies, regulations, procedures, and legislative proposals taking into consideration the views of the affected parties.

• Promotes within HCFA an awareness of the concerns of the health care community.

• Provides technical assistance and support services in the operations of the Practicing Physicians Advisory Council.

• Services as a contact in HCFA for international visitors. Responds to requests from intergovernmental agencies and the international community for information related to the United States health care system.

• Maintains a close working relationship with other Federal agencies on health related matters.

• Manages speaker and meeting requests for the Administrator. Receives and develops requests, identifies issues, and negotiates topics. Makes recommendations to the Administrator to accept or decline requests. Initiates search for Senior level speakers, when invitations are declined. Explores feasibility of meeting with senior staff, when meeting requests are declined.

• Manages the Speakers Bureau. Responds to requests from outside organizations for senior level HCFA speakers (other than the Administrator).

• Seeks speaker opportunities for the Administrator to present HCFA goals and objectives.

• Manages the Administrator's public appearances, and meetings. Serves as liaison between HCFA and the leadership of professional and beneficiary organizations in coordinating the preparations surrounding public appearances and meetings.

• Conducts follow-up activities. After each event a follow up call is made to the group to see if their issues were addressed. A call is also made to the Administrator's office to get the Administrator's comments on the effectiveness of the event.

• Develops briefing material for use by the Administrator, the Deputy, the Associate, and the Secretary, including identifying and researching issues of concern to both HCFA and outside organizations.

• Researches and writes the speeches given by the Administrator.

• Researches and prepares articles and other public statements for the Administrator's signature.

• Advises the Office of Media Relations on potential news opportunities stemming from public appearances and speaking engagements.

3. Office of Beneficiary Relations (FCC)

• Advises the Associate Administrator, HCFA senior staff and HCFA components on HCFA's policies and actions affecting Medicare and Medicaid beneficiaries.

• Promotes within HCFA an awareness of the needs and concerns of HCFA's beneficiaries (including those segments of the beneficiary population with special information or service needs), their families, caregivers and representatives.

• Maintains a close working relationship with other Federal and State agencies, and beneficiary representative organizations.

• Identifies the need for changes in information, benefits and services, and assesses the impact of proposed HCFA actions on current and future beneficiaries.

• Conducts and coordinates within HCFA the assessment of beneficiary needs, the measurement of beneficiary satisfaction with HCFA programs, policies and operations, and the development of customer service standards; serves as a resource with respect to these activities and the information collected through them.

• Participates with other HCFA components in the development and implementation of strategies and program objectives affecting beneficiary services.

• Responds to beneficiary inquiries involving access to and utilization of the Medicare and Medicaid programs and related issues.

• Plans, directs, and coordinates the production of audio and film products such as public service announcements and informational films, and the preparation and publication of general purpose publications such as *The Medicare Handbook, The Guide to Nursing Homes*, etc.

• Reviews and clears print, audiovisual, and exhibit plans and materials intended for use with beneficiary populations, and secures such clearances as needed through the Office of the Assistant Secretary for Public Affairs.

• Administers a wide variety of contracts, grant programs and interagency agreements, within HCFA, to assist in the conduct of its beneficiary service responsibilities.

• Works in cooperation with the Office of Media Relations to determine and meet the information needs of the public with respect to issues of concern to beneficiaries and their representatives.

• Coordinates other HCFA activities directly related to beneficiary services as they arise.

4. Freedom of Information and Privacy Office (FCE)

• Conducts activities necessary to the receipt, management, response, and reporting requirements of the Department under the Freedom of Information Act (FOIA) regarding all requests received by HCFA.

• Maintains a log of all FOIA requests received by the central office, refers requests to the appropriate components within headquarters, the regions or among carriers and intermediaries for the collection of the documents requested. Makes recommendations and prepares replies to requesters, including denials of information as permitted under FOIA, and drafts briefing materials and responses in connection with appeals of denials decisions.

• Consults with the Office of the General Counsel and the Department of Health and Human Services' Freedom of Information Officer and external agencies regarding denials, releases, and appeals.

• Provides in house training, internal and external work plans, and guidance for FOIA coordinators and management officials in HCFA central and regional office components, and maintains up-to-date knowledge of Federal Court decisions interpreting FOIA.

• Prepares guidelines and Medicare/Medicaid manual changes regarding FOIA program, keeps track of any changes levied for FOIA research process activities, and assures prompt payment.

• Establishes and monitors HCFA's policies and guidelines for the implementation of Privacy Act safeguards of records. This is accomplished by utilizing the administrative issuances system (AIS) guides and training.

• Directs the maintaining and amending of HCFA-wide records for confidentially and disclosure to the Privacy Act to include: planning, organizing, initiating and controlling privacy matching assignments.

• Develops HCFA comments and recommendations for reports, proposed policy and proposed legislation; coordinates appropriate privacy issues for FOIA requests; and responds to congressional, public and other agencies on Privacy Act issues.

• Publishes notices describing Privacy Act records systems and provides advice and guidance to HCFA components on issues as required by the Privacy Act.

• Follows necessary clearance procedures for proposals, and new system integrations.

• Maintains case records and the FOIA filing system, monitors and reviews FOIA office production reports and administrative responsibilities.

• Plans, directs, and coordinates studies to ascertain trends and developments in disclosures of information requested under the Freedom of Information Act. Develops these findings into various alternatives and recommendations for the more effective handling of FOI requests and presents them to management prior to implementation. Provides input to the Department on any proposed changes to FOI procedures.

• Defines the scope of requests and adequacy of records available.

Dated: May 19, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–13182 Filed 5–30–95; 8:45am]

BILLING CODE 4120–01–M

National Institutes of Health

National Cancer Institute; Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Institute for June 1995.

These meetings will be open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notice and for the review of concepts being considered for funding. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications, previous site visit reports, and for the critique and evaluation of extramural/intramural programmatic and personnel policies, including consideration of personnel qualifications and performance and the competence of individual investigators. These applications, reports and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, programs, and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 6130 Executive Blvd MSC 7405, Bethesda, Maryland 20892–7405, (301–496–5708) will provide a summary of the meetings and the roster of

committee members, upon request. Other information pertaining to the meetings may be obtained from the contact person indicated below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed for that particular meeting.

Committee Name: Cancer Research Manpower and Education Review Committee (Subcommittee A).

Contact Person: Dr. Mary Bell, Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Rm. 611A, 6130 Executive Blvd., Rockville, MD 20892–7094, Telephone: (301) 496–7978.

Date of Meeting: June 11–13, 1995.

Place of Meeting: The Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 2081.

Closed: June 11, 1995, 7:30 pm to recess, June 12, 1995, 8 am to recess, June 13, 1995, 8 am to adjournment.

Agenda: Review, discussion, and evaluation of individual grant applications.

Committee Name: Board of Scientific Counselors, Division of Cancer Treatment.

Contact Person: Dr. Robert Wittes, Acting Executive Secretary National Cancer Institute, NIH, Building 31A, Room 3A44, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: (301) 496–4291.

Date of Meeting: June 19, 1995.

Place of Meeting: Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 8 am to approximately 1 pm.

Agenda: Review program plans, concepts of contract recompetiions and budget for the DCT program.

Closed: 1 pm to adjournment.

Agenda: Review, discussion and evaluation of individual extramural/intramural programmatic and personnel policies including consideration of personnel qualifications and the performance and competence of individual investigators.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13272 Filed 5–30–95; 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 Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: RFA for Specialized Centers of Research on Hematopoietic Stem Cell Biology.

Date: June 13–15, 1995

Time: 8:00 p.m.

Place: Holiday Inn, Chevy Chase, Maryland

Contact Person: Eric H. Brown, Ph.D., 6701 Rockledge Drive, Room 7204, Bethesda, Maryland 20892–7924, (301) 435–0299.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Demonstration and Education Research Grants.

Date: July 18–19, 1995.

Time: 9:00 a.m.

Place: Stouffer Concourse Hotel, Arlington, Virginia.

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.

These meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(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 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13273 Filed 5–30–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Initial Review Group, Psychobiology, Behavior, and Neuroscience Review Committee, which was published in the **Federal Register** on April 17, 1995 (60 CFR 19268).

This committee was to have convened at 9 a.m. on June 19 at the Ramada Inn Rockville in Rockville, Maryland. The location has been changed to the Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD 20857.

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13274 Filed 5–30–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given to the meeting of the Extramural Science Advisory Board of the National Institute of Mental Health (NIMH) for July 1995.

The entire meeting will be open to the public for discussion of the NIMH grant portfolio. Attendance by the Public will be limited to space available. If individuals who plan to attend need special assistance, such as sign language interpretation or other reasonable accommodations, or need other information pertaining to the meeting, notify the contact person named below in advance of the meeting.

Name of Committee: Extramural Science Advisory Board, NIMH.

Date: July 24, 1995; 8:30 a.m.—Recess. July 25, 1995; 8:30 a.m.—Adjournment.

Place: Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Andrea Baruchin, Ph.D., Executive Secretary, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4335.

Purpose/Agenda: To discuss the Institute's portfolio.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13275 Filed 5–30–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; 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 of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 18, 1995.

Time: 1:30 p.m.
Place: Parklawn Building, Room 9C–101, 5600 Fishers Lane, Rockville, MD 20857.
Contact Person: Rehana A. Chowdhury, Grant Technical Assistant, Parklawn Building, Room 9C–101, 5600 Fishes Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13276 Filed 5–30–95; 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: Chemistry and Related Sciences.
Date: June 22, 1995.
Time: 1:00 p.m.
Place: NIH, Rockledge II, Room 5154, Telephone Conference.
Contact Person: Dr. Alec Liacouras, Scientific Review Admin., 6701 Rockledge Drive, Room 5154, Bethesda, MD 20892, (301) 435–1740.

Name of SEP: Clinical Sciences.
Date: June 28, 1995.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Ms. Josephine Pelham, Scientific Review Admin., 6701 Rockledge Drive, Room 4106, Bethesda, MD 20892, (301) 435–1786.

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, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.829, 93.893, National Institutes of Health, HHS)

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13277 Filed 5–30–95; 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: Clinical Sciences.
Date: June 28, 1995.
Time: 9:00 a.m.
Place: American Inn, Bethesda, MD.
Contact Person: Dr. Joseph Kaiser, Scientific Review Admin., 6701 Rockledge Drive, Room 4132, Bethesda, MD. 20892, (301) 435–1211.

Name of SEP: Clinical Sciences.
Date: June 28, 1995.
Time: 8:30 a.m.
Place: Natcher Conference Center, NIH, Bethesda, MD.
Contact Person: Dr. Lawrence Pinkus, Scientific Review Admin., 6701 Rockledge Drive, Room 4140, Bethesda, MD 20892, (301) 435–1214.

Name of SEP: Multidisciplinary Sciences.
Date: June 28, 1995.
Time: 11:00 a.m.
Place: ANA Hotel, Washington, DC.
Contact Person: Dr. Marjam Behar, Scientific Review Admin., 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1180.

Name of SEP: Biological and Physiological Sciences.
Date: June 30, 1995.
Time: 8:00 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Sandy Warren, Scientific Review Administrator, 6701 Rockledge Drive, Room 5134, Bethesda, MD 20892, (301) 435–1019.

Name of SEP: Clinical Sciences.
Date: July 6, 1995.
Time: 9:00 a.m.
Place: Crowne Plaza, Rockville, MD.
Contact Person: Dr. Mushtaq Khan, Scientific Review Administrator, 6701 Rockledge Drive, Room 4124, Bethesda, MD 20892, (301) 435–1778.

Name of SEP: Behavioral and Neurosciences.
Date: July 7, 1995.
Time: 9:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Jane Hu, Scientific Review Administrator, 6701 Rockledge Drive, Room 5168, Bethesda, MD 20892, (301) 435–1245.

Name of SEP: Multidisciplinary Sciences.
Date: July 10–12, 1995.
Time: 8:00 a.m.
Place: Holiday Inn, Gaithersburg, MD.
Contact Person: Dr. Dharam Dhindsa, Scientific Review Admin., 6701 Rockledge Drive, Room 5206, Bethesda, MD 20892, (301) 435–1174.

Name of SEP: Multidisciplinary Sciences.
Date: July 12, 1995.
Time: 8:00 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Eileen Bradley, Scientific Review Admin., 6701 Rockledge Drive, Room 5120, Bethesda, MD 20892, (301) 435–1179.

Name of SEP: Behavioral and Neurosciences.
Date: July 14, 1995.
Time: 9:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Jane Hu, Scientific Review Administrator, 6701 Rockledge Drive, Room 5168, Bethesda, MD 20892, (301) 435–1245.

Name of SEP: Multidisciplinary Sciences.
Date: July 19–21, 1995.
Time: 8:15 a.m.
Place: Crowne Plaza, Rockville, MD.
Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Admin., 6701 Rockledge Drive, Room 5210, Bethesda, MD 20892, (301) 435–1176.

Name of SEP: Multidisciplinary Sciences.
Date: July 23–24, 1995.
Time: 6:00 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20892, (301) 435–1171.

Name of SEP: Multidisciplinary Sciences.
Date: July 30–31, 1995.
Time: 6:00 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20892, (301) 435–1171.

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: July 29–30, 1995.
Time: 8:00 a.m.
Place: ANA Hotel, Washington, DC.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1180.

Name of SEP: Behavioral and Neurosciences.
Date: July 10, 1995.
Time: 9:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Jane Hu, Scientific Review Administrator, 6701 Rockledge Drive, Room 5168, Bethesda, MD 20892, (301) 435–1245.

Name of SEP: Multidisciplinary Sciences.

Date: July 10–11, 1995.
Time: 8:00 a.m.
Place: Crowne Plaza, Rockville, MD.
Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Admin., 6701 Rockledge Drive, Room 5210, Bethesda, MD 20892, (301) 435–1176.

Name of SEP: Multidisciplinary Sciences.
Date: July 10–11, 1995.
Time: 8:30 a.m.
Place: Crowne Plaza, Rockville, MD.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, MD 20892, (301) 435–1169.

Name of SEP: Multidisciplinary Sciences.
Date: July 12–14, 1995.
Time: 8:00 a.m.
Place: Crowne Plaza, Rockville, MD.
Contact Person: Dr. Bill Bunnag, Scientific Review Administrator, 6701 Rockledge Drive, Room 5212, Bethesda, MD 20892, (301) 435–1177.

Name of SEP: Multidisciplinary Sciences.
Date: July 17–18, 1995.
Time: 8:00 a.m.
Place: Ritz-Carlton, Tysons Corner, VA.
Contact Person: Dr. Eileen Bradley, Scientific Review Admin., 6701 Rockledge Drive, Room 5120, Bethesda, MD 20892, (301) 435–1179.

Name of SEP: Behavioral and Neurosciences.
Date: July 21, 1995.
Time: 8:30 a.m.
Place: Hyatt Regency Hotel, Bethesda.
Contact Person: Dr. Peggy McCardle, Scientific Review Admin., 6701 Rockledge Drive, Room 5198, Bethesda, MD 20892, (301) 435–1258.

Name of SEP: Multidisciplinary Sciences.
Date: July 24, 1995.
Time: 8:00 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Eileen Bradley, Scientific Review Admin., 6701 Rockledge Drive, Room 5120, Bethesda, MD 20892, (301) 435–1179.

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, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–13278 Filed 5–30–95; 8:45 am]

BILLING CODE 4140–01–M

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation; Linking State Administrative Data

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Request for applications for grants to support State efforts to link case-level administrative data across multiple low-income assistance programs.

SUMMARY: Recent state efforts to link longitudinal, administrative data across programs have proven extremely successful. Linked databases have provided a more thorough understanding of many aspects of both program participation and the characteristics of individuals who receive benefits from multiple anti-poverty programs. State-supported efforts have also provided valuable insight into both inter- and intra-state variations in program participation. Much of this information would not have been accessible through national panel data.

While the efforts of individual states have been extremely valuable, they have been limited to relatively few states. Factors such as prohibitive cost, lack of necessary staff expertise, and insufficient time and computational resources have precluded many interested states from linking their administrative data. Total funding of up to $200,000 is available to provide one to two interested states with resources needed to successfully link administrative data and use it for program management, research and scholarly analysis. It is not expected that the funding available in this grant will be sufficient for any state to complete a project that links micro-level administrative data. Rather, this grant is intended to assist those states which are interested in linking their administrative data, but currently lack the resources to successfully complete the project on their own.

Part I. Linking State Administrative Data

A. Background:

In the last five years, several states have begun assembling administrative data from income-maintenance and other programs targeted toward low-income individuals and families for use in policy research and program evaluation. Most notably, administrative data that has been linked from a variety of anti-poverty programs has been used to study characteristics of program participation, multi-service usage, and caseload dynamics. The results from many of these research initiatives have provided an extremely useful insight into the characteristics of program participants, the patterns of multi-service utilization, and the interactions between multiple programs that provide assistance to low-income families.

Administrative data also offer more possibilities for in-depth analysis than do other forms of data, such as national panel data. Many national studies do not give reliable state-level estimates, particularly in smaller states with relatively few sampling points. As a result, it is generally quite difficult to estimate the state-level effects of national anti-poverty programs. State administrative data offer the opportunity to study inter- and intra-state comparisons of government programs, and to examine the extent to which variations in state anti-poverty programs are successful in serving various client populations.

Usefulness of Project

The research that has been conducted to date has illustrated the efficacy in using linked administrative data for research and evaluation. In the vast majority of states, however, the use of linked data still remains either untouched or far below what is technically possible. A study funded by the Department surveyed fifteen states and determined that, for the majority of the states surveyed, linked administrative data is a potentially rich source of information about programs targeted toward low-income populations.

Despite the potential of state administrative data, the Department's previous findings indicate that linked, state-level program data still remains a vastly under-utilized source of information. Many states have both the interest and raw administrative data necessary to produce longitudinally-linked files at the case or client level. However, as the process of linking data across programs and over time is an expensive, iterative process that requires significant time and expertise, many states lack the capacity to link their data. Some states lack the computer hardware, software, disk space, and memory necessary to actually perform the process of linking data. Other states lack the expertise and staff-time to devote energy to a research project. Many states face both of these obstacles.

This grant will help the selected states overcome the obstacles that hinder the process of linking administrative data. For example, states with limited data-

linking experience and capacity could add the hardware and software needed to link and store data. States with more experience (such as those which currently operate linked, research data bases) could use the funds to add administrative data from additional anti-poverty programs.

Part II. Awardee Responsibilities

Due to the substantial variation among states in the level of experience and expertise in working with linked administrative data, we fully expect a wide range of proposals to be submitted. Proposals from states which currently have linked administrative databases will obviously differ dramatically from proposals submitted by states with which have never worked with linked data. Given this, the specific responsibilities of the awardees may vary. Each state will, however, be expected to follow the following guidelines:

1. Each applicant must develop the computer systems and technical capacity necessary to produce longitudinal, linked administrative micro-level data. The focus of the data may be on cases, households, clients, filing units, etc., or any combination thereof. For those applicants which currently have linked data bases, it is expected that this grant will provide the resources necessary to significantly enhance their current data systems.

2. Each applicant must link administrative data from at least two programs that primarily benefit low-income individuals or families. The states that currently operate linked, administrative research databases began by focusing on data from the AFDC, Medicaid and Food Stamps computer systems, largely because these data operating systems for these programs were fairly compatible due to the interactions between the programs. States in the early stages of data linking may choose to focus on these programs, but links between other programs are also strongly encouraged. Other administrative data that states may choose to link include: Child welfare and foster care, child support enforcement, unemployment insurance, vital statistics, disability, SSI and income tax data. Linkages between these programs are especially encouraged, as they will likely provide fresh insight into the interactions over time among these programs.

3. Each applicant must develop the capacity and knowledge necessary to prepare and standardize data for program management and scholarly analysis. The data resulting from this grant should be able to support policy research and program evaluation, and should provide insight into a variety of policy relevant concerns. Data-sets should support research into questions concerning (but not limited to) multi-program participation and usage, interactions between various anti-poverty programs, caseload dynamics, recidivism, fraud and abuse, and the demographic, economic and social characteristics of multi-program participants.

4. In addition to preparing the data in a manner suitable for program administration and scholarly research, applicants must demonstrate an ability to actually utilize the data analytically. Linked administrative data allow for a great variety of analysis. For example, files linked longitudinally can be studied with event-history and survivor analysis, methods which are used to understand caseload dynamics and determine how the sequence of service events affects a client's outcomes. Additionally, since administrative data typically have more complete and detailed information than panel data, administrative data analysis can more accurately assess the demographic and social characteristics of multi-service users. Administrative data can also be used to do detailed geographic analysis, which is helpful in studying whether there are significant variations in service usage across different administrative regions or across neighborhoods.

It is necessary for applicants to detail exactly how their linked data can be used for scholarly analysis. States with larger social service departments may have researchers on staff who possess the skills necessary to fully explore the data. Other states may wish to combine their efforts with an academic or policy research organization with expertise in data analysis. Both of these alternatives, as well as others, would be acceptable. It is not our intent to limit the analytical choices of applicants, but rather to ensure that the data sets created under this grant are used to their full potential.

5. Applicants must obtain written agreements with all state or county social service departments that will supply the source data. The agreement should clearly indicate the responsibilities of both the applicants and the state or county agency, and the willingness of the parties to work cooperatively. Applicants must also include a plan which ensures that the resulting linked Data ensure client confidentiality.

6. Applicants must demonstrate an ongoing commitment to the project. A principal use of these data is to study current policy relevant questions about programs for low-income populations. Data for answering current questions are most useful when they capture current effects of such programs. Consistent with their on-going commitment to data linking and analysis, applicants must ensure that both recent historical data and new case data will be added after the Federal funding for this project expires.

Part III. Prerequisites, Content of Application, Review Process, and Evaluation Criteria

A. Prerequisites

Who may apply? We will only accept applications from state agencies, large urban county agencies, or universities working with them. This announcement is aimed primarily at states that can link statewide data bases. Applications will also be considered from large urban county governments that can clearly demonstrate the ability to link administrative databases in a way that could provide data of national policy relevance. University-based research teams that are working with state agencies to develop linked data bases may apply but must provide assurances from the state that they are intimately involved in developing and utilizing the data base for policy purposes.

What data bases? Applicants must clearly demonstrate the ability to link at least two micro (person, family, or case) files and at least be in the midst of analyzing data for policy research or evaluation purposes. Examples of files that have been linked in other situations are: AFDC, Medicaid, Child Welfare and Foster care, Unemployment Insurance, Child Support, Individual Income Tax, Vital Statistics, and Juvenile Courts. At a minimum, linked data bases must allow for at least three years of longitudinal analysis.

On-going commitment? The state agency responsible for establishing the linked data system must provide evidence of an on-going commitment to developing the data base and using it to understand poverty, program utilization, caseload dynamics, program effectiveness, and other important aspects of administration of anti-poverty, employment, and welfare programs. Applicants that do not provide assurances that all three of these prerequisites will be fulfilled will be unacceptable.

B. Applicant Content

The application shall include the following elements:

1. Abstract

A one page abstract of the project and its objectives.

2. Goals and Justification for Project

This section will discuss why the agency wishes to undertake the project and what the short and long-term goals of the project are. The applicant should discuss the background of what it has been doing to support linking administrative data bases, the current status of data base development, and what it expects to accomplish with this project. It should discuss what analysis will be completed given completion of the project, the analytical report that will be produced, and what policy relevance it will have. States should also present their plans, if any, to produce a public use dataset as a result of this project.

Linking two or more administrative data bases for analytical purposes is a complicated and difficult endeavor. It often can take several iterations of refinement to produce a data base that supports analysis of more than simple descriptive statistics about the caseload. This section should discuss where the agency is in the evolution of the linking and embedding policy analysis in the administrative management of the programs involved. It should contain a discussion of how the agency will carry on after this funding is exhausted. For applicants who are not currently linking databases, they should clearly demonstrate their knowledge of the process, as well as their plans to obtain the necessary expertise to successfully carry out their proposed project.

3. Project Design and Approach

In this section, the applicant will discuss what, if any, data are currently linked, what will be added through this grant, and how it will be accomplished. This section should describe what variables are available and will be added, what length of time period is covered, what kind of data analysis currently can be done, and what analytical capability will be added by this project. The discussion should make it clear to the reader what is the structure of the data, what are the building blocks (individuals, families, households, cases, filing units, etc.), the universe of state population covered, the types of variables (demographic, program participation, program dynamics, costs, etc.) that can be used for analysis. The applicant should also clearly specify how the micro-level data will be linked and how the retrospective case files will be assembled. Does a unique identifier exist that will allow data to be easily linked across programs? If not, what variable or record-matching technique will be employed? It also should make clear what information is not available, and the limitations this poses for policy-relevant analysis.

If applicants are not currently linking any administrative data, then they should assure reviewers that they have adequate access to at least three years of recent historical administrative data. Applicants should also convince reviewers that they have the expertise needed to complete the project, and also have the commitment to continue linking administrative data for research, analysis, and program management purposes.

The treatment of confidentiality and proper disclosure is a very important issue related to linking data and analyzing it. The applicants will discuss how they will protect data from improper disclosure, and how they will facilitate analytical use of sensitive data. This section will discuss the time table to accomplish this project. Who will do what, when, and how? It also will discuss what will be the end product of this project. What sort of report will be produced? What policy relevance will it have to the state and to DHHS?

4. Organization and Staffing

The application will describe the organization applying for the grant. If the applicant is a state agency, where does it fit in the state organization? What are its responsibilities? What are its capabilities and limitations? How can it assure that this project will be embedded in the state's policy analysis system?

The applicant will discuss the staffing for the project. Who will be the project leader? What are the qualifications of the staff and who will be involved? What are their time commitments to the project and what other time commitments do they have that might interfere with successful completion of the project? Personal vita and job descriptions should be attached as an appendix to the application.

If a university group is involved in the project, the application will clearly delineate what the responsibilities of the group will be and how the state agency will exercise control over their work. It will describe the mechanism (subcontract, etc.) used to procure the university group services.

5. Budget

This section will include a budget summary and narrative which describes how the budget supports the research plan. It should show the financial contribution made or expected by other funding sources, and the share of total project costs covered by ASPE's grant. It will discuss how the overall funding level and federal contribution relate to the successful completion of the project. The actual budget will be presented on the forms and in accordance with the requirements discussed in the section entitled ''Components of a Complete Application.''

6. Commitment of State

Applicants should use this section to completely describe the resources the state has already committed to the project. If the state has not yet established support for the project, then applicants should discuss any future involvement expected of the state. Resources contributed by the state could include any financial assistance (and whether it is an outright cash grant or is targeted for a specific purchase such as computing equipment), allocation of staff or computing time, technical assistance, and any other relevant contribution.

C. Review Process and Evaluation Criteria

A technical panel of at least three people will review and score those applications which are submitted by the deadline, and which meet the screening and prerequisite requirements. The review will be based on the criteria listed below. The review of the technical proposal and budget will be used by the Assistant Secretary in making funding decisions. ASPE reserves the option to discuss the application and the state agency record of performance with other agencies, Regional Office staff, and experts who may have information that could assist the selection process.

The evaluation criteria correspond to the outline for the development of the Program Narrative Statement of the application. Although not mandatory, it is strongly recommended that applications be prepared with the format indicated by this outline.

Selection of the successful applicant(s) will be based on the technical and financial criteria laid out in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The review panel will prepare a summary of all applicant scores and strengths/weaknesses and recommendations and submit it to the Assistant Secretary for Planning and Evaluation for final decisions on the award.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review

process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications. Applications will be reviewed as follows:

(a) Quality of the goals and Project Justification. (See Part B, Type of Application Requested, Section 2.) (15 points) Applications will be judged on whether they provide a thoughtful and coherent discussion of the need for the project and what it will accomplish. Reviewers will judge applicant's past, current, and future commitment to linking administrative data for policy analysis, research, and evaluation. Particular attention will be given to the agency's commitment to scholarly, policy-relevant work, and their commitment to producing a public use dataset as a result of this project.

(b) Quality of the project design and approach. (See Part B, Section 3.) (35 points) Reviewers will judge this section on the basis of whether the research agenda is scientifically sound and policy relevant. They will also consider whether the applicant is likely to make a significant contribution to understanding such important issues as program utilization and effectiveness, caseload dynamics, types of clients, and multiple program participation. Applications will be rated on their plans to conduct policy relevant research and interact with various levels of government to research and evaluate significant government initiatives and policies.

Reviewers will assess the completeness of the data bases linked, population coverage, and the extensiveness of the variables in the data base. A proposal with more data bases linked will be rated higher than one with only two program databases, all other factors being constant. Evidence of data quality control and validity is also extremely important. Ratings will consider the thoroughness of the discussion of the database strengths and weaknesses. Reviewers will assess whether there is appropriate use and protection of sensitive or confidential data. The type and quality of end product anticipated from this project will be considered and rated. Finally, reviewers will rate the feasibility of the workplan and time schedule.

(c) Quality of the staffing proposal and proposed organizational arrangements. (See Part B, Section 4.) (35 points) Reviewers will judge applicant's staff on research experience, demonstrated research skills, public administration experience, and relevant policy-research and policy-making skills. Ratings may consider references on prior research projects. Staff time commitments to the project also will be a factor in the evaluation. Furthermore, reviewers will rate the applicant's pledge and ability to produce a database capable of supporting policy-relevant analysis.

Reviewers will evaluate the track record of the lead agency ability to support scholarly, policy relevant research that can meet the demands of the academic, research, and policy communities.

If a university group is involved in the project, raters will judge the administrative relationships between the group and the state agency and whether the administrative arrangements can assure quality data and analysis.

(d) Appropriateness of the budget to carry out the planned staffing and activities. (See Part B, Section 5.) (15 points) Ratings will consider whether: (a) The budget assures an efficient and effective allocation of funds to achieve the objectives of this solicitation and (2) the applicant has appropriate financial commitment from the state and the university, if one is involved.

State Single Point of Contact (E.O. No. 12372): The Department of Health and Human Services has determined that this program is not subject to Executive Order No. 12372, Intergovernmental Review of Federal Programs, because it is a program that is national in scope and the only impact on State and local governments would be through subgrants. Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. No. 12372.

Deadline for Submission of Applications: The closing date for submission of applications under this announcement is July 31, 1995. Applications must be postmarked or hand-delivered to the application receipt point no later than 4:30 p.m. on July 31, 1995.

Hand-delivered applications will be accepted Monday through Friday prior to and on July 31, 1995 during the hours of 9 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW., in Washington, DC. When hand-delivering an application, call 690–8794 from the lobby for pick-up. A staff person will be available to receive applications.

An application will be considered as meeting the deadline if it is either: (1) Received at, or hand-delivered to, the mailing address on or before July 31, 1995, or (2) postmarked before midnight five days prior to the deadline date July 31, 1995, and received in time to be considered during the competitive review process (within two weeks of the deadline date).

When mailing application packages, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.), or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the July 31, 1995, deadline are considered late applications and will not be considered or reviewed in the current competition. HHS will send a letter to this effect to each late applicant.

HHS reserves the right to extend the deadline for all applications due to acts of God, such as floods, hurricanes or earthquakes; due to acts of war; if there is widespread disruption of the mail; or if HHS determines a deadline extension to be in the best of the Government. However, HHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Applications forms. See section entitled ''Components of a Complete Application.'' All of these documents must accompany the application package.

Length of Application. Applications should be brief and concise as possible, but assure successful communication of the applicant's proposal to the reviewers. In no case shall an applicant (excluding the resume appendix and other appropriate attachments) be longer than 25 double-spaced pages; it should neither be unduly elaborate not contain voluminous supporting documentation.

Disposition of Applications.

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the ASPE will either (a) approve the application in whole, as revised, or in part for such amount of funds and subject to such conditions as are deemed necessary or desirable for the initiation and operation of the data linking project; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The ASPE will notify the applicants of the disposition of their application. A signed notification of award will be

issued to notify the applicant of the approved application.

Components of a Complete Application. A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424, Revised 4–88);
2. Budget Information—Non-construction Programs (Standard Form 424A, Revised 4–88);
3. Assurances—Non-construction Programs (Standard Form 424B, Revised 4–88);
4. Table of Contents;
5. Budget Justification for Section B—Budget Categories;
6. Proof of non-profit status, if appropriate;
7. Copy of the applicant's approved indirect cost rate agreement if necessary;
8. Project Narrative Statement, organized in five sections addressing the following topics:
   (a) Understanding of the Effort,
   (b) Project Approach,
   (c) Staffing Utilization, Staff Background, and Experience,
   (d) Organizational Experience, and
   (e) Budget Narrative;
9. Any appendices/attachments;
10. Certification Regarding Drug-Free Work place;
11. Certification Regarding Debarment, Suspension and Other Responsibility Matters; and
12. Certification and, if necessary, Disclosure Regarding Lobbying;
13. Supplement to Section II—Key Personnel; and
14. Application for Federal Assistance Checklist.

Dated: May 22, 1995.

David T. Ellwood,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 95–13220 Filed 5–30–95; 8:45 am]

BILLING CODE 4151–04–M

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U. S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on June 29, 1995.

The primary agenda topic will be concerned with the report and recommendations of the *ad hoc* working group of the NTP Board from their review of the criteria for listing substances in the *Biennial Report on Carcinogens* (BRC) (formerly *Annual Report on Carcinogens*) on April 24 and 25, 1995. Specifically, the Board will:

(1) review the report and recommendations of the *ad hoc* working group;

(2) receive public comments on the report; and

(3) develop Board recommendations concerning the selection criteria.

The preliminary agenda topics with approximate times are as follows:

8:30 a.m.–8:45 a.m.—Report of the Director, NTP.

8:45 a.m.–9:15 a.m.—Report of the Director, Environmental Toxicology Program (ETP).

9:15 a.m.–9:45 a.m.—Report of the NTP Workshop on ''Mechanism-Based Toxicology in Cancer Risk Assessment: Implications for Research, Regulation, and Legislation,'' held January 11–13, 1995.

10:00 a.m.–10:20 a.m.—Report on the Meeting of the *Ad Hoc* Working Group to Review Criteria for Listing of Substances in the BRC.

10:20 a.m.–11:00 a.m.—Board Discussion of the Working Group Report.

11:00 a.m.–12:00 p.m.—Public Comments on the Report.

1:15 p.m.–2:15 p.m.—Further Discussion and Development of Recommendations by the Board Concerning the BRC Selection Criteria.

2:15 p.m.–2:25 p.m.—Report on Technical Reports Review Subcommittee Activities.

2:25 p.m.–2:55 p.m.—Chemicals Nominated and Recommended for Study by the Interagency Committee for Chemical Evaluation and Coordination (ICCEC) on December 14, 1994, will be presented for discussion and time will be allowed for public comment. Chemicals evaluated by the ICCEC were (with CAS Nos. in parentheses): (1) Arsenic Trioxide (1327–53–3); (2) Ethidium Bromide (1239–45–8); (3) 5-(Hydroxymethyl)furfural (67–47–0); (4) Isoamyl Acetate (123–92–2); and (5) MX [3-chloro-4-(dichloromethyl) 5-hydroxy-2-(5H)-furanone] (77439–76–0). One chemical previously evaluated was re-reviewed: Hexamethyldisilazane (999–97–3).

3:15 p.m.–3:45 p.m.—Concept Review: *In Vitro* and *In Vivo* Genetic Toxicology Testing.

3:45 p.m.–4:30 p.m.—Alternative Methods—Status and Plans:

—RFA for Research in ''Mechanistically Based Alternative Methods in Toxicology.''

—Proposed Workshop on ''Alternative Test Methods in Toxicology: Validation and Regulatory Acceptance.''

Adjournment

Public Comments Encouraged

The meeting is open to the public, and public input concerning the criteria for listing a substance in the *Biennial Report on Carcinogens* is encouraged. A brief summary of the *ad hoc* working group meeting, including the current and proposed revised criteria, is available on request from the NTP Liaison Office, P.O. Box 12233, MD B3–01, Research Triangle Park, NC 27709, phone: (919) 541–0530, FAX: (919) 541–0295. This summary also will be published in the **Federal Register** in late May or early June. Written comments can be submitted to Dr. Larry G. Hart, Executive Secretary. Formal oral comments during the meeting will be limited to five minutes to permit maximum participation. Written comments accompanying oral statements are encouraged. To assure consideration by the Board at the meeting, written comments must be received by June 23, 1995. Registration to attend is not required; however, to ensure adequate seating, we ask that those planning to attend let us know. To register, submit written comments or announce intention to make oral comments, receive information on the agenda, or be put on the mailing list for summary minutes subsequent to the meeting, please contact: Dr. L. G. Hart, P.O. Box 12233, Research Triangle Park, NC 27709; telephone: (919) 541–3971; FAX: (919) 541–0719.

Dated: May 18, 1995.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 95–13284 Filed 5–30–95; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3922]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of

Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before June 30, 1995. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 12, 1995.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgage Lender/Servicer EDI Profile Survey.

Office: Administration.

Description of The Need For The Information And Its Proposed Use: HUD is seeking Mortgage Lenders and Servicer of FHA-insured mortgage portfolios to participate in an Electronic Data Interchange (EDI) Program that will enable submission of mortgage insurance claims directly to HUD via EDI. An EDI Profile Survey is proposed for use in determining the interest and capability of mortgage lenders to join this program.

Form Number: None.

Respondents: Businesses or Other For-Profit.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	13,125		1		1		13,125

Total Estimated Burden Hours: 13,125.

Status: Extension, no changes.

Contact: Rex D. Gavin, HUD (202) 708–0306; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 12, 1995.

[FR Doc. 95–13186 Filed 5–30–95; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–95–3921]

Notices of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments must be received on or before June 30, 1995. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 16, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Requisition for Disbursement of Section 202 Loan Funds.

Office: Housing.

Description Of The Need For The Information And Its Proposed Use: Form HUD–92403–EH will be used by the non-profit borrower entity to obtain disbursement on its HUD-funded building loan under the Section 202 Housing Program for the Elderly or Handicapped. Its use during the construction period will enable the borrower to obtain funds to settle his

obligations or reimbursements in a timely manner.

Form Number: HUD–92403–EH.

Respondents: Not-For-Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92403–EH	310		3		.5		465

Total Estimated Burden Hours: 465.

Status: Reinstatement with changes.

Contact: Aretha Williams, HUD, (202) 708–2866; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 16, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Compliance Inspection Report—Mortgagee's Assurance of Completion.

Office: Housing.

Description of The Need For The Information And its Proposed Use: Form HUD–92051 is used by HUD staff and private inspectors to report the status of repair requirements on existing or proposed construction cases. Form HUD–92300 will be used by mortgage companies to establish escrow accounts for incomplete repairs or constructions.

Form Number: HUD–92051 and HUD–92300.

Respondents: Businesses or Other For-Profit.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92051	14,500		250		.25		906,250
HUD–92300	14,500		1		.25		3,625

Total Estimated Burden Hours: 909.875.

Status: Extension with changes.

Contact: David Dwyer, HUD (202) 708–2121; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 16, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Contract for Development A/E Services and Contract for CIAP A/E Services.

Office: Public and Indian Housing.

Description Of The Need For The Information And Its Proposed Use: Public Housing Agencies and Indian Housing Authorities (PHA/IHA) use Forms HUD–51915 and HUD 51915–A to contract for professional architect/engineer (A/E) services and to prepare the necessary documents for construction, rehabilitation, and modernization of housing developments.

Form Number: HUD–51915 and HUD–51915–A.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	2,630		1		3.5		9,205
Recordkeeping	2,630		1		.25		657

Total Estimated Burden Hours: 9,862.

Status: Revision.

Contact: William C. Thorson, HUD, (202) 708–4703; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 16, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Questionnaire—Types of Technical Assistance Services Provided by Individuals and Small Businesses.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: This questionnaire will be used to identify the types of services, i.e., contractual, professional, general management, financial and/or legal which individuals and/or small businesses can provide to

Indian Housing Authorities as technical assistance.

Form Number: None.

Respondents: Individual or Households and Businesses or Other For-Profit.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Questionnaire	500		1		.16		80

Total Estimated Burden Hours: 80.

Status: New.

Contact: Joan Ladesh, HUD (202) 755–0066; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 16, 1995.

[FR Doc. 95–13187 Filed 5–30–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs—Proposed Finding For Federal Acknowledgment of Huron Potawatomi, Inc.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (Assistant Secretary) proposes to acknowledge that Huron Potawatomi, Inc., 2221 1 ½ Mile Road, Fulton, Michigan 49052, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the tribe satisfies all of the criteria set forth in 25 CFR 83.7 as modified by 25 CFR 83.8, and, therefore, meets the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit arguments and evidence to support or rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the Assistant Secretary must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or request for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research. Mailstop 2611–MIB.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary by 209 DM 8.

The petitioner, also known as the Nottawaseppi Huron Potawatomi Band, consists of descendants of the historical Potawatomi tribe of Michigan. Its members are descendants specifically of the Potawatomi of Huron, a band which signed treaties with the Federal Government from the Treaty of Greenville in 1795 through the Articles Supplementary to the Treaty of Chicago in 1833. After the War of 1812, this group moved from the Detroit area to the Nottawaseppi Reserve, established by the Federal treaty of 1821, in southwestern Michigan. Because of these treaties, the petitioner meets the requirements of § 83.8 as having unambiguous previous Federal acknowledgment and has been considered under the modifications of § 83.7 that are prescribed by § 83.8. The date of the last treaty, 1833, has been used as the date of latest Federal acknowledgment for purposes of this finding to enable the petitioner to proceed under the provisions of § 83.8. Because the petitioner had already completed documentation of the petition before the present regulations became effective, it was not necessary to determine if there was a later date of unambiguous Federal acknowledgment.

Between 1833 and 1840, the petitioner's ancestors continued to reside on the Nottawaseppi Reserve. In 1840, the ancestors of the petitioner either avoided attempts of the Federal Government to remove the Potawatomi to Kansas or returned to Michigan within a few years after removal. The community was reestablished by 1842. Huron Potawatomi, Inc. is centered at the Pine Creek Indian Reservation in Calhoun County, Michigan. This 120-acre tract of land was purchased by the founders of the community in 1845 with Federal annuity monies and placed in trust with the State of Michigan, in which status it has remained until the present day. During the second half of the 19th century, the original population was augmented by the migration into the settlement of a few additional Michigan Potawatomi families, which was in accordance with the traditionally permeable boundaries of Potawatomi villages.

From the date of its reestablishment (1842) until the present, the petitioner's community has consistently been identified as a settlement of Michigan Potawatomi in Federal, state, and local documents, which include Federal census records, Bureau of Indian Affairs census records and annuity rolls, county realty records and vital records, Methodist Indian mission records, and local histories. No ethnicity for the community other than Potawatomi has been suggested by any scholar or observer. The identification is as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity. Therefore, we conclude that the petitioner meets criterion 83.7(a) as modified by criterion 83.8(d).

The petitioner presented evidence that it maintained usage of the Potawatomi language and had a level of in-group or culturally appropriate patterned out-group marriages to other Michigan Indians of over 50 percent of total marriages from 1842 through 1960. At least through 1934, the petitioner had over 50 percent of the group's population resident at or near the Pine Creek site, thus meeting the requirements of criterion 83.7(b), for community up to 1960 under the provisions of § 83.7(b)(2).

Although since the Depression, to the present, younger members of the group have moved off the reservation site in search of housing and employment, there emerged a defined pattern of migration to specific locations in Michigan. Evidence indicates that the emigrants not only maintain close social and kinship ties with the central Pine Creek settlement area, but also maintain close social and kinship ties among the five external settlement areas. Thus, we conclude that the petitioner meets criterion 83.7(b) as modified by section 83.8(d), which requires a showing that the group constitutes a distinct, cohesive community at present.

Because the Huron Potawatomi meet the requirements of the community criterion 83.7(b) between 1833 and 1934

by showing a sufficient level of evidence under 83.7(b)(2), pursuant to 83.7(c)(3) they also meet criterion 83.7(c) for that time period. Between 1833 and 1840 (the date the Federal Government attempted to remove all Potawatomi on the Nottawaseppi Reserve to Kansas), anecdotes and reminiscences of pioneer settlers mention leaders and chiefs of the Potawatomi of Huron on the Nottawaseppi Reserve, and the Potawatomi of Huron continued during this period of time to collect Federal annuities under the Treaty of 1807. From 1842 through the present day, the Pine Creek settlement, which is incorporated as Huron Potawatomi, Inc., the petitioner, has had an unbroken sequence of documented leadership.

After the reestablishment of the community at Pine Creek in 1842, the band continued to choose traditional chiefs through 1934. From 1934 through 1970, the leadership was by a committee closely associated with the Methodist Indian mission on the Pine Creek reservation. In 1970, the petitioner incorporated and has since been administered by an elected chairman and council. These leaders regularly represented the group in its interaction with the Bureau of Indian Affairs and to the public, as well as supervising internal reservation activities. Therefore, we conclude that the petitioner meets criterion 83.7(c) as modified by criterion 83.8(d).

The petitioning group has provided a copy of its governing document, which describes its membership criteria. Thus, we conclude that the petitioner meets criterion 83.7(d).

With the exception of one adopted child, all of the 819 members on the petitioner's 1994 membership list have been documented to descend from persons listed on the 1904 Taggart Roll, compiled by the Bureau of Indian Affairs in connection with the issuance of Potawatomi annuity payments under Federal treaties. Thus we conclude that the petitioner meets criterion 83.7(e).

A portion of the membership of Huron Potawatomi, Inc. (171 individuals)—persons who had dual ancestry from both the Huron Potawatomi and the Pokagon Potawatomi—was determined to be dually enrolled with the Pokagon Potawatomi Band (aka Potawatomi of Michigan and Indiana, Inc.), which was federally acknowledged through the legislative process in 1994, while the petition from Huron Potawatomi, Inc., was being evaluated through the administrative process. At the time the Huron Potawatomi, Inc. membership roll was compiled and submitted, the Pokagon Potawatomi were not federally acknowledged. Neither the Huron nor the Pokagon constitutions prohibit dual enrollment with other unacknowledged Indian groups. The proportion of individuals enrolled in a recognized tribe (21 percent in the Pokagon Potawatomi and five percent in other tribes) is small enough that the Huron Potawatomi membership is not principally composed of persons who are members of an acknowledged North American Indian tribe. Therefore, we find that the petitioner meets criterion 83.7(f) within the purpose of the regulation, which is designed to prevent the splintering and break-up of federally acknowledged tribes through the Federal acknowledgment process.

No evidence was found that the petitioner or its members are the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship. Therefore, we find that the petitioner meets criterion 83.7(g).

In October 1994, 126 Taggart Roll descendants who have dual ancestry in both the Huron Potawatomi and in the Potawatomi settlement centered around Bradley and Salem in Allegan County, Michigan, notified the Bureau of Indian Affairs that they wish to have their names removed from the Huron Potawatomi, Inc. membership list in order to be part of the petition for Federal acknowledgment of the Match-e-be-nash-she-wish Potawatomi Band (#9A). Removal of these 126 individuals from the petitioner's membership does not affect the ability of the petitioner to meet the mandatory criteria of the Federal acknowledgment regulations.

Based on this preliminary factual determination, we conclude that the Huron Potawatomi, Inc. should be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the revised regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request. Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention; Branch of Acknowledgment and Research, Mailstop 2611—MIB. Third parties must simultaneously supply copies of their comments to the petitioner in order for them to be considered by the Department of the Interior.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (83.10(j)(1)). In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (83.10(j)(2)).

If third party comments are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to these comments. This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (83.10(k)).

At the end of the response periods the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable timeframe for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins. The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and third parties. A summary of the final determination will be published in the **Federal Register** within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins, as provided in 25 CFR 83.10(l)(2).

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–13172 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[WO–350–09–1430–00]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been

submitted to the office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information and collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance Officer at phone number listed below. Comments and suggestions on the requirements should be made to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0107), Washington, DC 20503, telephone number 202–395–7340.

Title: 43 CFR 2800 and 2880, Rights-of-Way.

OMB Approval Number: (1004–0107).

Abstract: This information, supplied by an applicant for a right-of-way, is needed for the authorized officer to determine whether or not a right-of-way may be granted, establish terms and conditions of the grant, and administer the grant when made.

Bureau Form Number: None.

Frequency: Once when an application is filed.

Description of Respondents: Applicants needing a right-of-way on Federal Lands.

Estimated Completion Time: 16.8 hours.

Annual Responses: 1,000.

Annual Burden Hours: 16,800.

Bureau Clearance Officer: Wendy Spencer 303–236–6642.

Dated: April 15, 1995.

W. Hord Tipton,

Assistant Director, Resource Use & Protection.

[FR Doc. 95–13231 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit From Aronov Realty Management Incorporated, in Baldwin County, Alabama

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Aronov Realty Management Incorporated, (Applicant), has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act). The proposed permit would authorize for a period of 30 years the incidental take of an endangered species, the Alabama beach mouse *(Peromyscus polionotus ammobates)*, known to occupy a 52-acre tract of land owned by the Applicant in Baldwin County, Alabama. The Application proposed to construct a project known as Martinique, which will include two 18-unit mid-rise residential buildings, their associated landscaped grounds and parking areas, a beach club recreation amenity, and two dune walkover structures (Project).

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA or HCP may be obtained by making requests to the addresses below. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and HCP should be received on or before June 30, 1995.

ADDRESSES: Persons wishing to review the application may obtain a copy *by writing* the Service's Southeast Regional Office, Atlanta, Georgia. Persons wishing to review the EA or HCP may obtain a copy *by writing* the Regional Office or the Jackson, Mississippi, Field Office. Requests must be in writing to properly process requests. Documents will also be available for public inspection, by appointment, during normal business hours at the Regional Office, or the Field Office. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit under PRT—802986 in such comments.

Regional Permit Coordinator (TE), U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 210, Atlanta, Georgia 30345, (telephone 404/679–7110, FAX 404/679–7280).

Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213 (telephone 601/965–4900, FAX 601/965–4340).

FOR FURTHER INFORMATION CONTACT: Mr. Will McDearman at the above Jackson, Mississippi, Field Office.

SUPPLEMENTARY INFORMATION: The Alabama beach mouse (ABM), *Peromyscus polionotus ammobates*, is a subspecies of the common oldfield mouse *Peromyscus polionotus* and is restricted to the dune systems of the Gulf Coast of Alabama. The known current range of ABM extends from Fort Morgan eastward to the western terminus of Alabama Highway 182, including the Perdue Unit on the Bon Secour National Wildlife Refuge (BSNWR). The sand dune systems inhabited by this species are not uniform; several habitat types are distinguishable. The species inhabits primary dunes, interdune areas, secondary dunes, and scrub dunes. The depth and area of these habitats from the beach inland varies. Population surveys indicate that this subspecies is usually more abundant in primary dunes that in secondary dunes, and usually more abundant in secondary dunes than in scrub dunes. Optimal habitat consists of dune systems with all dune types. Though fewer ABM inhabit scrub dunes, these high dunes can serve as refugia during devastating hurricanes that overwash, flood, and destroy or alter secondary and frontal dunes. ABM surveys on the Applicant's property reveal habitat occupied by ABM. The Applicant's property contains designated critical habitat for the ABM. Construction of the Project may result in the death of, or injury to, ABM. Habitat alterations due to house placement and its subsequent use may reduce available habitat for food, shelter, and reproduction. Further, the Applicant's property borders the BSNWR, and is considered Priority I lands for inclusion into the Perdue Unit (of BSNWR).

The EA considers the environmental consequences of several alternatives. One action proposed is the issuance of the incidental take permit. This alternative provides for restrictions that include placing landward of the designated ABM critical habitat, establishment of a walkover structure across that scrub dune, a prohibition against housing or keeping pet cats, ABM competitor control and monitoring measures, scavenger-proof garbage containers, restoration of dune systems impacted by the construction, and the minimization and control of outdoor lighting. The HCP provides a funding source for these mitigation measures. Another alternative is Service acquisition of the property for inclusion into the BSNWR. A third alternative is no-action, or deny the request for authorization to incidentally take the ABM.

Dated: May 23, 1995.

Noreen K. Clough,

Regional Director.

[FR Doc. 95–13207 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–55–P

Receipt of Application(s) for Permit

The following Applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

PRT–798900

Applicant: Mr. Andy G. Grubbs, San Marcos, Texas.

The Applicant requests a permit amendment to take the listed Texas cave invertebrates from previously unknown locations in Texas, for the purpose of scientific research, recovery actions, and survival of the species as prescribed by Service recovery documents.

PRT–802708

Applicant: Mr. Karl Stephan, Red Oak, Oklahoma.

The Applicant requests a permit to take the American burying beetle (*Nicrophorus americanus*) at specified locations in Oklahoma, for the purpose of scientific research, recovery actions, and survival of the species as prescribed by Service recovery documents.

PRT–802731

Applicant: Mr. Kenneth D. Heil, San Juan College, Farmington, New Mexico.

The Applicant requests a permit to take several threatened and endangered plant species within the San Juan Basin and drainages in Arizona, New Mexico, Colorado, and Utah, for the purposes of scientific research and recovery actions, and survival of the species as prescribed by Service recovery documents.

PRT–802744

Applicant: Ms. Karen Baud, The S.M. Stoller Corporation, Boulder, Colorado.

The Applicant requests a permit to take southwestern willow flycatcher (*Empidonax traillii extimus*) and Mexican spotted owl (*Strix occidentalis lucida*) north of Pecos, New Mexico, for the purpose of scientific research and recovery actions, and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–13208 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–55–M

U.S. Geological Survey

Indonesia; Comprehensive Geographic Information System Development

SUMMARY: Notice is hereby given that the U.S. Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with a consortium of U.S. industries and academic institutions. The purpose of the CRADA is to develop a comprehensive geographic information system for the Government of Indonesia. Any other parties interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

DATES: This notice is effective immediately.

ADDRESSES: Information on the proposed CRADA is available to the public upon request at the following location: U.S. Geological Survey, Office of International Geology, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Medlin of the U.S. Geological Survey, Office of International Geology, at the address given above; telephone (703) 648–6062; fax (703) 648–4227.

Dated: May 22, 1995.

P. Patrick Leahy,

Chief, Geologist.

[FR Doc. 95–13230 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Native American Graves Protection and Repatriation Review Committee: Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1988), that a meeting of the Native American Graves Protection and Repatriation Act Review Committee will be held on October 16, 17, and 18, 1995, in Anchorage, Alaska.

The Committee will meet in the Dillingham room at the Anchorage Hilton, 500 West 3rd Ave., Anchorage, AK 99510–9953. The final day of the meeting may be held in the Eagan Center, Anchorage, AK, in conjunction with the Alaska Federation of Natives annual convention. Meetings will begin each day at 8:30 a.m. and conclude not later than 5:00 p.m.

The Native American Graves Protection and Repatriation Review Committee was established by Public Law 101–601 to monitor, review, and assist in implementation of the inventory and identification process and repatriation activities required under the statute.

On the agenda for this meeting will be comments to the Committee's draft recommendations regarding the disposition of culturally unidentifiable human remains in museums and Federal collections. The Committee with also hear public comment and discuss the application of the statute in Alaska.

Culturally unidentifiable human remains are those in museum or Federal agency collections for which, following the completion of inventories by November 16, 1995, no lineal descendants or culturally affiliated Indian tribe has been determined.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Persons will be accommodated on a first-come, first-served basis. In addition, due to the presence of Alaska Federation of Natives delegates, hotel rooms in Anchorage may be scarce. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Francis P. McManamon, Departmental Consulting Archeologist.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeological Assistance Division (MS0436), National Park Service, P.O. Box 37127 Washington, D.C. 20013–7127, Washington D.C. 20002, Telephone (202) 343–4101. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Departmental Consulting Archeologist, Suite 210, 800 North Capital Street, Washington, D.C.

Dated: May 16, 1995.

Francis P. McManamon,

Departmental Consulting Archeologist and Chief, Archeological Assistance Division.

[FR Doc. 95–13200 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.; NHK Science and Technical Research Laboratories

Notice is hereby given that, on March 17, 1995, pursuant to the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc., (''CableLabs''); and NHK Science and Technical Research Laboratories (''NHK''), have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plantiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are CableLabs, Louisville, CO; and NHK, Tokyo, JAPAN.

The general area of planned activity is to exchange information and ideas about high definition television, multi-user shared spectrum transmission of video and the technical possibilities for general television and audio visual services in the future.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–13232 Filed 5–30–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 the Frame Relay Forum

Notice is hereby given that, on March 20, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Frame Relay Forum (''FRF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purposes of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identity of the additional member of FRF is: CellAccessTechnology, Inc. Milpitas, CA.

Deutsche Bundespost Telekom, a member of FRF, has changed its name to Deutsche Telekom and Ascom Timeplex, a member of FRF, has changed its name to AsCOM Enterprise Networks.

No other changes have been made in either the membership or planned activities of FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department of December 20, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 24, 1995 (60 FR. 10408).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–13233 Filed 5–30–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Health Data Sciences Corporation

Notice is hereby given that, on May 9, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Health Data Sciences Corporation for itself and on behalf of its members, has filed written notification simultaneous with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities to the parties are Health Data Sciences Corporation, San Bernardino, CA; Arthur D. Little, Inc., Cambridge, MA; and New York City Health and Hospitals Corporation, New York, NY. The purpose of this Joint Venture is to develop and demonstrate enhanced health care information systems. The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–13234 Filed 5–30–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PowerOpen Association, Inc.

Notice is hereby given that, on March 27, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Poweropen Association, Inc. (''PowerOpen''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to acquire damages under specified circumstances. Specifically, the identities of the new members of PowerOpen are: Electro Sonic, Inc., Ontario, CANADA, AIB Software Corporation, Dulles, VA; Liant Software Corporation, Austin, TX; PFU Limited, San Jose, CA; and Cheyenne Software, Roslyn Heights, NY.

No other changes have been made in either the membership or planned activity of the joint venture. Membership remains open and PowerOpen intends to file additional written notification disclosing all changes in membership.

On April 21, 1993, PowerOpen filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 22, 1993 (58 FR 33954).

The last notification was filed with the Department on December 28, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1995 (60 FR 13733).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–13235 Filed 5–30–95; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of

programs, policies, and plans for the Center for Legislative Archives in the Office of Special and Regional Archives.

DATES: June 19, 1995, from 9 a.m. to 10:30 a.m.

ADDRESSES: United States Capitol Building, LBJ Room (S–211).

FOR FURTHER INFORMATION CONTACT: Michael L. Gillette, Director, Center for Legislative Archives, (202) 501–5350.

SUPPLEMENTARY INFORMATION:

Agenda

Review of Committee Activities
Five-Year Plan for the Management and Preservation of the Records of Congress
Update—Legislative Support Agency Task Force Online Access to Legislative Records
Videotaped Floor Proceedings
Other current issues and new business

The meeting is open to the public.

Dated: May 19, 1995.

Ralph C. Bledsoe,

Acting Archivist of the United States.

[FR Doc. 95–13280 Filed 5–30–95; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–499]

Houston Lighting & Power Company City Public Service Board of San Antonio Central Power and Light Company City of Austin, Texas; South Texas Project, Unit 2 Environmental Assessment And Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. NPF–80, issued to Houston Lighting & Power Company (HL&P) acting on behalf of itself and for the City Public Service Board of San Antonio (CPS), Central Power and Light Company (CPL), and City of Austin, Texas (COA) (the licensees), for operation of the South Texas Project, Unit 2, located in Matagorda County, Texas.

Environmental Assessment

Identification of the Proposed Acting

The proposed action would grant an exemption from a requirement of Section III.D.1.(a) of appendix J to 10 CFR part 50, which requires a set of three type A tests (Containment Integrated Leak Rate Test or CILRT) be performed, at approximately equal intervals during each 10-year service period. This licensee request for an exemption would delay the next scheduled containment integrated leak rate test for one outrage, from the fourth refueling outage to the fifth refueling outage.

The proposed action is in accordance with the licensee's application for exemption dated March 16, 1995.

The Need for the Proposed Action

The proposed action is needed because the licensee's current schedule would require the second CILRT to be performed during the fourth refueling outage (Fall 1995). Minimal safety benefit would be realized by performing the scheduled CILRT, since the majority of primary containment leakage has previously been identified through the biennial performance of the Local Leak Rate Test (LLRT). Without this exemption, the licensee would not be allowed to reduce a regulatory burden that has minimal impact on safety.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the exemption would not significantly increase the probability or amount of expected containment leakage, and that containment integrity would thus be maintained.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the 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 does not involve the use of any resources not previously considered in the ''Final Environmental Statement related to the operation of South Texas Project, Units 1 and 2,'' dated August 1986.

Agencies and Persons Consulted

In accordance with its stated policy, on April 25, 1995, the staff consulted with the Texas State official, Arthur C. Tate of the Bureau of Radiation Control, Texas Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 16, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 23rd day of May 1995.

For The Nuclear Regulatory Commission.

George Kalman,

Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–13206 Filed 5–30–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Pure Tech International, Inc., Common Stock, $.01 Par Value) File No. 1–11025

May 24, 1995.

Pure Tech International, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities and

Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it is voluntarily requesting that the Security be delisted from the BSE due to low trading volumes.

Any interested person may, on or before June 15, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–13216 Filed 5–30–95; 8:45 am]

BILLING CODE 8010–01–M

[Release Nos. 33–7172; 34–37560; File No. 265–20]

Advisory Committee on the Capital Formation and Regulatory Processes

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes will meet on June 15, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 2:00 p.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: David A. Sirignano, Committee Staff Director, at 202–942–2870; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on June 15, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 2:00 p.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets.

The purpose of this meeting will be to discuss the progress of the Committee's work, begin evaluation of possible alternative approaches to the capital formation and regulatory processes, as well as to discuss general organizational matters.

Dated: May 24, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–13217 Filed 5–30–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35759; File No. SR–CBOE–95–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Members' Compliance With Position and Exercise Limits for Non-CBOE Listed Options

May 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 20, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rules 4.11, ''Position Limits,'' and 4.12, ''Exercise Limits,'' to require CBOE members who trade on-CBOE listed option contracts and who are not members of the exchange where the options are traded to comply with the option position and exercise limits set by the exchange where the transactions are effected.[1] In addition, the CBOE proposes to amend the text of CBOE Rule 4.12 to replace references to the Exchange's previous equity option position limits with references to the Exchange's current equity position limits, which were excluded inadvertently from the text of CBOE Rule 4.12 when the equity option position limits were increased in December 1993.[2] Finally, the CBOE proposes to amend CBOE Rules 4.11 and 4.12 to indicate that the Exchange's position and exercise limits are now established by the staff of the CBOE, rather than by the CBOE's Board of Directors (''Board'').

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

According to the CBOE, one purpose of the proposal is to eliminate a jurisdictional loophole whereby a CBOE member, who exceeds position or exercise limits on another options exchange in an option class not listed on the CBOE and who is not a member of the other exchange, falls outside of both the CBOE's and the other options

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[1] Position limits impose a ceiling on the number of option contracts in each class on the same side of the market *i.e.*, aggregating long calls and short puts or long puts and short calls) that can be held or written by an investor or group of investors acting in concern. Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

[2] *See* Securities Exchange Act Release No. 33283 (December 3, 1993), 58 FR 65204 (December 13, 1993) (order approving File No. SR–CBOE–93–43) (''Position Limit Approval Order'').

exchange's jurisdiction for position and exercise limit purposes. The CBOE notes that while CBOE Rules 4.11 and 4.12 prohibit excessive positions or exercises in CBOE listed option contracts, the CBOE's rules do not currently prohibit a CBOE member from exceed applicable limits set by another exchange for non-CBOE listed option contracts. If the CBOE member is not a member of the other exchange which lists the option contracts, then the other exchange cannot enforce its position and exercise requirements against the CBOE member either.

The proposed amendments will extend CBOE Rules 4.11 and 4.12 to apply to option contracts dealt in on any exchange (rather than only to option contracts dealt in on the CBOE) by requiring a CBOE member who is effecting transactions in non-CBOE listed option contracts on another exchange, of which he or she is not a member, to comply with the position and exercise limits set by the exchange on which the transaction is effected. Thus, a CBOE members's customer transactions in non-Exchange listed options will be brought within the CBOE's jurisdiction for position and exercise limit purposes, if and when the other exchange on which the excessive transactions are effected does not have member jurisdiction over the CBOE member.

According to the CBOE, other national securities exchange have noted a similar jurisdictional shortfall. The CBOE anticipates that other exchanges will propose similar options position and exercise limit rule changes so that jurisdiction will be expanded uniformly and coherently among the exchanges.

In addition, the CBOE proposes to amend CBOE Rule 4.12 exercise limits to correlate to current CBOE position limits. Accordingly, the exercise limits will be increased to 4,500, 7,500, or 10,500 option contracts. Inadvertently, the CBOE's exercise limits were not increased when the equity option position limits were increased in December 1993.[3]

Finally, the CBOE proposes to amend CBOE Rules 4.11 and 4.12 to reflect that position and exercise limits are not fixed by the staff of the Exchange, rather than by the Board.[4]

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days after the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–13219 Filed 5–30–95; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Position Limit Approval Order, Supra note 2.

[4] The Commission notes that any proposal to revise the Exchange's position and exercise limits must be filed with the Commission pursuant to Section 19(b)(2) under the Act.

[5] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35757; File No. SR–PSE–95–15

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Administrative "Late" Charges

May 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 16, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 PSE is proposing to amend its Schedule of Rates to establish a late charge, applicable to members and member organizations, for the failure to pay Exchange dues, fees, fines or charges that are past due.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange is proposing to establish an administrative charge applicable to members and member organizations that are substantially late in making payments to the Exchange of dues, fees, fines, or other charges. The purpose of the rule change is to recover the Exchange's costs in seeking to collect such payments when they are past due and to encourage members and member organizations to make such payments in a timely manner.

Currently, the Exchange provides invoices and related notices to members as follows: An initial invoice is sent to members approximately five days after a given month in which dues, fees and other charges are accrued (*e.g.,* on March 5, a member is billed for fees and charges accrued in February). If no payment is made on the invoice within one month, the Exchange sends the member a ''late'' notice on the tenth day of the month following the month in which the invoices was issued (*e.g.,* on April 10). Thereafter, if no payment is made by the 20th of that same month (*i.e.,* April 20), the Exchange sends such member a second ''late'' notice. Under the proposal, the Exchange would apply a late charge concurrently with the issuance of the second ''late'' notice.

The amount of the late charge would be as follows: $250.00 or 1.0 percent of the invoice amount (whichever is greater) upon the first occurrence of a second ''late'' notice within a 12-month period; and $500 or 1.5 percent of the invoice amount (whichever is greater) if the member receives two or more second ''late'' notices within a 12-month period. For purposes of this provision, a member is ''late'' if the Exchange has sent such member a ''second late notice'' on a previous occasion.

Although Article XIV, Section 1(b) of the PSE Constitution permits the Exchange to suspend members and member organizations for such non-payment, the Exchange believes that the proposed charge will help to encourage members to pay their bills promptly, before a suspension is necessary.

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Intereste persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–95–15 and should be submitted by June 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–13218 Filed 5–30–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety User Fees

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Notice.

SUMMARY: This notice announces that the fiscal year 1995 user fee assessments for pipeline facilities were mailed to pipeline operators the week of April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Lisa Kokoszka, (202) 366–4554, U.S. Department of Transportation, RSPA, Office of Pipeline Safety, 400 Seventh Street SW., Washington, DC, 20590, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: The fee to be assessed for Natural Gas Transmission, Hazardous Liquid and Liquefied Natural Gas (LNG) are as indicated below:

Natural gas transmission pipelines: $95.57 per mile (based on 299,077 miles of pipeline).

Hazardous liquid pipelines: $47.03 per mile (based on 154,233 miles of pipeline).

LNG is based on the number of plants and total storage capacity:

Total storage capacity BBLS	Assess-ment/plant
<10,000	= $1,250
10,000–100,000	= 2,500
100,000–250,000	= 3,750
250,000–500,000	= 5,000
>500,000	= 7,500

Section 60301 of Title 49, U.S.C.,[1] authorizes the assessment and collection of pipeline user fees to fund the pipeline safety activities conducted under 49 U.S.C. 60101 *et seq.* The Research and Special Program Administration (RSPA) assesses each operator of regulated interstate and intrastate natural gas transmission pipelines (as defined in 49 CFR Part

[1] Formally section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub.L. 99–272). The change in citation is the result of the enactment, on July 5, 1994, of Pub. L. 103–272, which codified various transportation laws.

192), and hazardous liquid pipelines carrying petroleum, petroleum products, anhydrous ammonia and carbon dioxide (as defined in 49 CFR Part 195) a share of the total Federal pipeline safety program costs in proportion to the number of miles of pipeline each operator has in service. Operators of LNG facilities are assessed based on total storage capacity (as defined in 49 CFR Part 193).

A final rule on hazardous liquid pipelines operating at 20 percent or less of specified minimum yield strength (low stress pipelines), was published in the **Federal Register** on July 12, 1994 (58 FR 12213, July 12, 1994). This rule became effective on August 11, 1994. Because of this regulation, low stress pipeline mileage must be included in the fiscal year 1995 user fee assessments. Low Stress Pipelines include pipelines that carry highly volatile liquids (HVL), pipelines or pipeline segments in populated areas, and pipelines or pipeline segments in navigable waterways. Onshore rural gathering pipelines, pipelines that operate at less than 20% of SMYS (non-HVL located outside populated areas and navigable waterways), and other pipelines excluded from regulation by 49 CFR 195, should not be included.

In accordance with the provisions of 49 U.S.C. 60301, Departmental resources were taken into consideration for determining total program costs. The apportionment ratio between gas and liquid is shown below:

Year(s)	General program costs (gas)	General program costs (liquid)
1986–1990	80%	20%
1991–1992	75%	25%
1993	75% (¾ yr.)	25% (¾ yr.)
	60% (¼ yr.)	40% (¼ yr.)
1994	60%	40%
1995	75%	25%

Comments: On Friday, February 3, 1995, a notice of agency action and request for comments was issued (60 FR 6767, Feb. 3, 1995), regarding proposed changes in administering user fee assessments. Seven pipeline operators, one commenter acting as an agent for several operators, and two major gas pipeline trade organizations opposed collecting the fee twice within calendar year 1995. These commenters stated that the budgets of most companies are prepared by calendar year, and that companies have planned for only one assessment in 1995. The commenters recommended moving the two assessment dates to 1996, which would give companies time to plan their budgets.

Response: RSPA agrees that assessing the user fee twice in calendar year 1995 may be burdensome for the pipeline operators. Therefore, RSPA will assess only once in 1995. In 1996, RSPA will send out two assessments. The first assessment in 1996 will be January 31, 1996, and the second will be in the October-December 1996 timeframe. This should provide ample budgetary preparation time.

Additional comments received by RSPA in response to the February 3, 1995, notice are currently being reviewed and will be addressed in the near future.

Collection Dates: In accordance with the regulations of the Department of the Treasury, user fees will be due 30 days after the date of the assessment. Interest, penalties, and administrative charges will be assessed on delinquent debts in accordance with 31 U.S.C. 3717.

Issued in Washington, DC on May 24, 1995.

Ana Sol Gutiérrez,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 95–13222 Filed 5–30–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

[Treasury Order Number 170–09]

Direction to the Director, United States Secret Service, to Close Streets Necessary To Make the White House Perimeter Secure; Delegation of Authority

May 19, 1995.

As Secretary of the Treasury, I am authorized to direct the Secret Service to take any and all appropriate action to protect the President of the United States and other protectees as described in 18 U.S.C. 3056(a). In furtherance of these responsibilities, Secretary Bentsen commenced a review of the security arrangments at the White House (the Review). The Review is not able to identify any alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the protection of the President and others in the White House Complex from explosive devices carried by vehicles near the perimeter.

Therefore, I have determined based upon the Review's work and conclusions that it is necessary to make secure the perimeter of the White House.

By virtue of the authority vested in the Secretary of the Treasury, including, but not limited to, the authority vested by 31 U.S.C. 321, 18 U.S.C. 3056 and 3 U.S.C. 202, it is ordered that:

1. The Director, United States Secret Service, is directed to close to vehicular traffic the following streets in order to secure the perimeter of the White House: (i) The segment of Pennsylvania Avenue, Northwest, in front of the White House between Madison Place, Northwest, and 17th Street, Northwest; and (ii) State Place, Northwest, and the segment of South Executive Avenue, Northwest, that connects into State Place, Northwest (see attached map).

2. I hereby delegate to the Director, United States Secret Service, all necessary authority to carry out such street closings.

3. This Order shall take effect May 19, 1995.

Robert E. Rubin,

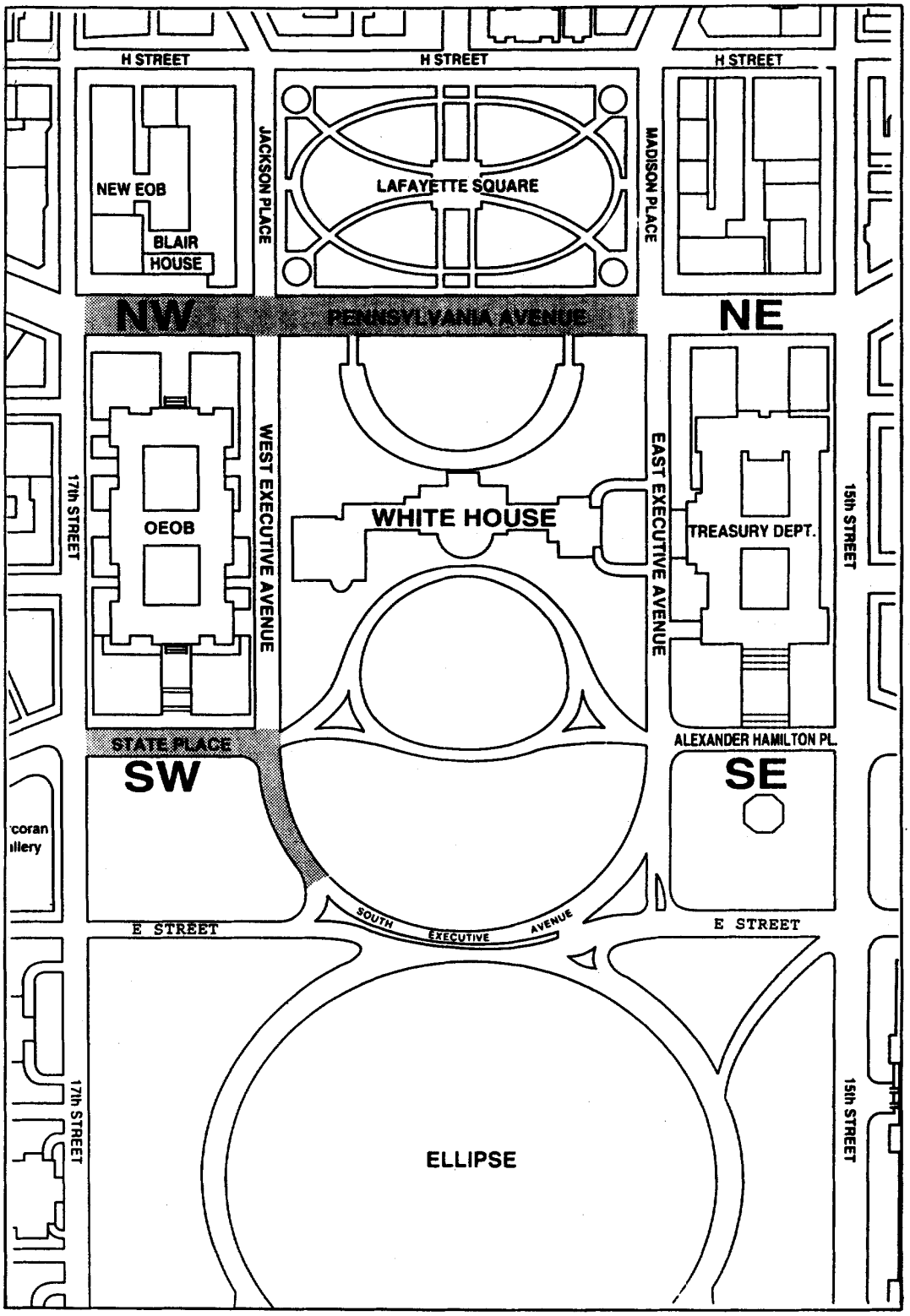
Secretary of the Treasury.

BILLING CODE 4810–25–P

TO 170-09
05-19-95

Attachment

PEDESTRIAN ACCESS AREAS



[FR Doc. 95–13155 Filed 5–30–95; 8:45 am]

BILLING CODE 4810–25–C

Sunshine Act Meetings

Federal Register
Vol. 60, No. 104
Wednesday, May 31, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, June 5, 1995.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–0000 Filed 5–30–95; 8:45 am]

BILLING CODE 6210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: June 2, 1995, at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–700 (Final) (Disposable Lighters from the People's Republic of China)—briefing and vote.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 25, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–13348 Filed 5–30–95; 8:45 am]

BILLING CODE 7020–02–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: June 6, 1995 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–703–704 (Final) (Furfuryl Alcohol from the People's Republic of China and South Africa)—briefing and vote.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 25, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–13349 Filed 5–30–95; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, June 6, 1995.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6405B Special Investigation Report: Robinson R22 Helicopter Loss of Main Rotor Control and In-flight Breakup Accidents.

6458A Briefs of Highway Accidents: Weatherford, Texas, 7/3/94 and Hooks, Texas, 8/8/94.

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTRACT: Bea Hardesty, (202) 382–6525.

Dated: May 26, 1995.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 95–13450 Filed 5–30–95; 8:45 am]

BILLING CODE 7533–01–M

federal register

Wednesday
May 31, 1995

Part II

Department of Justice

Office of Justice Programs; Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants; Final Rule

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

[OJP No. 1000F]

RIN 1121–AA28

Formula Grants

May 22, 1995.

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Republication.

SUMMARY: This document is published to consolidate the Formula Grants Regulation for ease of use by grantees. This document reflects the consolidation of the revisions to the Formula Grants Regulation published in the **Federal Register** on March 10, 1995 and corrections published on April 21, 1995.

EFFECTIVE DATE: The final regulation became effective on March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Roberta Dorn, Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Room 543, Washington, DC 20531; (202) 307–5924.

SUPPLEMENTARY INFORMATION: This document contains the entire text of the Formula Grants Regulation, 28 CFR Part 31, including recently made changes and corrections. On March 10, 1995, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published in the **Federal Register** the final Formula Grants Regulation revising 28 CFR part 31. The regulation revisions provided clarification and guidance to States in the formulation, submission and implementation of the State Formula Grants Program under Part B of Title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992 (Pub. L. 102–586, November 18, 1992). On April 21, 1995 (60 FR 19847), OJJDP published in the **Federal Register** corrections to the final Regulation because the Final Regulation, as published on March 10, 1995 (60 FR 13330), was an earlier draft version that was materially different from the final draft that was intended to be published.

The major changes to the Final Regulation made in the March 10, 1995 revision and subsequent April 21, 1995 correction implemented the 1992 reauthorization statutory amendments that impact the Formula Grants Program. These statutory changes include: a formula grant fund allocation minimum base for participating States and territories; elimination of the ''substantial compliance criteria'' with respect to the deinstitutionalization of status offenders and jail and lockup removal requirements because full compliance is required; a requirement that there be separate juvenile and adult staff with respect to management, security and direct care in juvenile detention facilities that are collocated with an adult jail or lockup. The final Regulation includes the requirement that collocated juvenile detention facilities approved by the State and concurred with by OJJDP on or before June 30, 1995, be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence. Facilities approved after the effective date of the Regulation and prior to July 1, 1995, will be reviewed against the regulatory criteria in effect on the day before the effective date of the Regulation. For collocated juvenile detention facilities considered after June 30, 1995, OJJDP's concurrence is limited to one year and, thereafter, will be reviewed on an annual basis. The Regulation eliminated the requirement that in order for a collocated juvenile detention facility to receive OJJDP's initial and subsequent concurrences, the facility could only provide secure custody for juvenile criminal-type offenders, status offenders accused of violating a valid court order, and adjudicated delinquents and valid court order violators who are awaiting disposition hearings or transfer to a long term juvenile correctional facility.

Executive Order 12866

This final regulation in not a ''significant regulatory action'' for purposes of Executive Order 12866 because it does not result in: (1) 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 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; and (4) does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles of Executive Order 12866.

Regulatory Flexibility Act

This final regulation, does not have a ''significant'' economic impact on a substantial number of small ''entities'', as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

Paperwork Reduction Act

No collection of information requirements are contained in or effected by this regulation (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

Intergovernmental Review of Federal Programs

In accordance with Executive Order 12372 and the Department of Justice's implementing regulation 28 CFR Part 31, States must submit formula grant applications to the State ''Single Point of Contact,'' if one exists. The State may take up to 60 days from the application date to comment on the application.

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency, Reporting and recordkeeping r equirements.

For the reasons set out in the preamble, Title 28, Chapter I, Part 31 of the Code of Federal Regulations is republished for the convenience of the reader as follows:

PART 31–FORMULA GRANTS

Subpart A—General Provisions

Sec.
31.1 General.
31.2 Statutory authority.
31.3 Formula Grant Plan and Applications.

Subpart B—Eligible Applicants

31.100 Eligibility.
31.101 Designation of State Agency.
31.102 State agency structure.
31.103 Membership of supervisory board.

Subpart C—General Requirements

31.200 General.
31.201 Audit.
31.202 Civil rights.
31.203 Open meetings and public access to records.

Subpart D—Juvenile Justice Act Requirements

31.300 General.
31.301 Funding.
31.302 Applicant State agency.
31.303 Substantive requirements.
31.304 Definitions.

Subpart E—General Conditions and Assurances

31.400 Compliance with statute.
31.401 Compliance with other Federal laws, orders, circulars.
31.402 Application on file.
31.403 Civil rights requirements.

Authority: 42 U.S.C. 5601 et seq.

Subpart A—General Provisions

§ 31.1 General.

This part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by part B, subpart I, of the Juvenile Justice and Delinquency Prevention Act.

§ 31.2 Statutory authority.

The Statute establishing the Office of Juvenile Justice and Delinquency Prevention and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the *Juvenile Justice and Delinquency Prevention Act of 1974,* as amended (42 U.S.C. 5601 *et seq.*).

§ 31.3 Formula grant plan and applications

Formula Grant Applications for each Fiscal Year should be submitted to OJJDP by August 1st (60 days prior to the beginning of the fiscal year) or within 60 days after the States are officially notified of the fiscal year formula grant allocations. Beginning with FY 1995 and each subsequent fiscal year, all Formula Grant Applications are due no later than March 31 of the fiscal year for which the funds are allocated.

Subpart B—Eligible Applicants

§ 31.100 Eligibility.

All States as defined by section 103(7) of the JJDP Act.

§ 31.101 Designation of State agency.

The Chief Executive of each State which chooses to apply for a formula grant shall establish or designate a State agency as the sole agency for supervising the preparation and administration of the plan. The plan must demonstrate compliance with administrative and supervisory board membership requirements established by the OJJDP Administrator pursuant to Section 299 (c) of the JJDP Act. States must have available for review a copy of the State law or executive order establishing the State agency and its authority.

§ 31.102 State agency structure.

The State agency may be a discrete unit of State government or a division or other component of an existing State crime commission, planning agency or other appropriate unit of State government. Details of organization and structure are matters of State discretion, provided that the agency:

(a) Is a definable entity in the executive branch with the requisite authority to carry out the responsibilities imposed by the JJDP Act;

(b) Has a supervisory board (i.e., a board of directors, commission, committee, council, or other policy board) which has responsibility for supervising the preparation and administration of the plan and its implementation; and

(c) Has sufficient staff and staff capability to carry out the board's policies and the agency's duties and responsibilities to administer the program, develop the plan, process applications, administer grants awarded under the plan, monitor and evaluate programs and projects, provide administration/support services, and perform such accountability functions as are necessary to the administration of Federal funds, such as grant close-out and audit of subgrant and contract funds. At a minimum, one full-time Juvenile Justice Specialist must be assigned to the Formula Grants Program by the State agency. Where the State does not currently provide or maintain a full-time Juvenile Justice Specialist, the plan must clearly establish and document that the program and administrative support staff resources currently assigned to the program will temporarily meet the adequate staff requirement, and provide an assurance that at least one full-time Juvenile Justice Specialist will be assigned to the Formula Grants Program by the end of FY 1995 (September 30, 1995).

§ 31.103 Membership of supervisory board.

The State advisory group appointed under section 223(a)(3) may operate as the supervisory board for the State agency, at the discretion of the Governor. Where, however, a State has continuously maintained a broad-based law enforcement and criminal justice supervisory board (council) meeting all the requirements of section 402(b)(2) of the Justice System Improvement Act of 1979, and wishes to maintain such a board, such composition shall continue to be acceptable provided that the board's membership includes the chairman and at least two additional citizen members of the State advisory group. For purposes of this requirement a citizen member is defined as any person who is not a full-time government employee or elected official. Any executive committee of such a board must include the same proportion of juvenile justice advisory group members as are included in the total board membership. Any other proposed supervisory board membership is subject to case by case review and approval of the OJJDP Administrator and will require, at a minimum, ''balanced representation'' of juvenile justice interests.

Subpart C—General Requirements

§ 31.200 General.

This subpart sets forth general requirements applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements.

§ 31.201 Audit.

The State must assure that it adheres to the audit requirements enumerated in the ''Financial and Administrative Guide for Grants, Guide Manual 7100.1 (current edition). Chapter 8 of the Manual contains a comprehensive statement of audit policies and requirements relative to grantees and subgrantees.

§ 31.202 Civil rights.

(a) To carry out the State's Federal civil rights responsibilities the plan must:

(1) Designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as liaison in all civil rights matters with OJJDP and the OJP Office of Civil Rights Compliance (OCRC); and

(2) Provide the Council's Equal Employment Opportunity Program (EEOP), if required to maintain one under 28 CFR 42.301, et seq., where the application is for $500,000 or more.

(b) The application must provide assurance that the State will:

(1) Require that every applicant required to formulate an EEOP in accordance with 28 CFR 42.201 et seq., submit a certification to the State that it has a current EEOP on file, which meets the requirement therein;

(2) Require that every criminal or juvenile justice agency applying for a grant of $500,000 or more submit a copy of its EEOP (if required to maintain one under 28 CFR 42.301, et seq.) to OCRC at the time it submits its application to the State;

(3) Inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with OCRC for investigation;

(4) Cooperate with OCRC during compliance reviews of recipients located within the State; and

(5) Comply, and that its subgrantees and contractors will comply with the requirement that, in the event that a Federal or State court or administrative agency makes a finding of

discrimination of the basis of race, color, religion, national origin, or sex (after a due process hearing) against a State or a subgrantee or contractor, the affected recipient or contractor will forward a copy of the finding to OCRC.

§ 31.203 Open meetings and public access to records.

The State must assure that the State agency, its supervisory board established pursuant to section 299(c) and the State advisory group established pursuant to section 223(a)(3) will follow applicable State open meeting and public access laws and regulations in the conduct of meetings and the maintenance of records relating to their functions.

Subpart D—Juvenile Justice Act Requirements

§ 31.300 General.

This subpart sets forth specific JJDP Act requirements for application and receipt of formula grants.

§ 31.301 Funding.

(a) *Allocation to States.* Funds shall be allocated annually among the States on the basis of relative population of persons under age eighteen. If the amount allocated for Title II (other than parts D and E) of the JJDP Act is less than $75 million, the amount allocated to each State will not be less than $325,000, nor more than $400,000, provided that no State receives less than its allocation for FY 1992. The territories will receive not less than $75,000 or more than $100,000. If the amount appropriated for Title II (other than parts D and E) is $75 million or more, the amount allocated for each State will be not less than $400,000, nor more than $600,000, provided that parts D and E have been funded in the full amounts authorized. For the Territories, the amount is fixed at $100,000. For each of FY's 1994 and 1995, the minimum allocation is established at $600,000 for States and $100,000 for Territories.

(b) *Funds for Local Use.* At least two-thirds of the formula grant application to the state (other than the section 222(d) State Advisory Group set aside) must be used for programs by local government, local private agencies, and eligible Indian tribes, unless the State applies for and is granted a waiver by the OJJDP. The proportion of pass-through funds to be made available to eligible Indian tribes shall be based upon that proportion of the state youth population under 18 years of age who reside in geographical areas where the tribes perform law enforcement functions. Pursuant to section 223(a)(5)(C) of the JJDP Act, each of the standards set forth in paragraphs (b)(1)(i) through (111) of this section must be met in order to establish the eligibility of Indian tribes to receive pass through funds:

(1) (i) The tribal entity must be recognized by the Secretary of the Interior as an Indian tribe that performs law enforcement functions as defined in paragraph (b) (2) of this section.

(ii) The tribal entity must agree to attempt to comply with the requirements of section 223(a)(12)(A), (13), and (14) of the JJDP Act; and

(iii) The tribal entity must identify the juvenile justice needs to be served by these funds within the geographical area where the tribe performs law enforcement functions.

(2) ''Law enforcement functions'' are deemed to include those activities pertaining to the custody of children, including, but not limited to, police efforts to prevent, control, or reduce crime and delinquency or to apprehend criminal and delinquent offenders, and/or activities of adult and juvenile corrections, probation, or parole authorities.

(3) To carry out this requirement, OJJDP will annually provide each state with the most recent Bureau of Census statistics on the number of persons under age 18 living within the state, and the number of persons under age 18 who reside in geographical areas where Indian tribes perform law enforcement functions.

(4) Pass-through funds available to tribal entities under section 223(a)(5)(C) shall be made available within states to Indian tribes, combinations of Indian tribes, or to an organization or organizations designated by such tribe(s), that meet the standards set forth in paragraphs (b)(1)(i)–(iii) of this section. Where the relative number of persons under age 18 within a geographic area where an Indian tribe performs law enforcement functions is too small to warrant an individual subgrant or subgrants, the state may, after consultation with the eligible tribe(s), make pass-through funds available to a combination of eligible tribes within the state, or to an organization or organizations designated by and representing a group of qualifying tribes, or target the funds on the larger tribal jurisdictions within the state.

(5) Consistent with section 223(a)(4) of the JJDP Act, the state must provide for consultation with Indian tribes or a combination of eligible tribes within the state, or an organization or organizations designated by qualifying tribes, in the development of a state plan which adequately takes into account the juvenile justice needs and requests of those Indian tribes within the state.

(c) *Match.* Formula grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds, which require a 100 percent cash match (dollar for dollar), and construction projects funded under section 299C(a)(2) which also require a 100 percent cash match.

(d) *Funds for Administration.* Not more than ten percent of the total annual Formula Grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government on an equitable basis. Each annual application must identify uses of such funds.

(e) *Nonparticipating States.* Pursuant to section 223(d), the OJJDP Administrator shall endeavor to make the fund allotment under section 222(a), of a State which chooses not to participate or loses its eligibility to participate in the formula grant program, directly available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used only for the purpose(s) of achieving deinstitutionalization of status offenders and nonoffenders, separation of juveniles from incarcerated adults, removal of juveniles from adult jails and lockups, and reducing the disproportionate confinement of minority youth in secure facilities. Absent a request for extension which demonstrates compelling circumstances justifying the reallocation of formula grant funds back to the State to which the funds were initially allocated, or the proceedings under section 223(d), formula grant funds allocated to a State which has failed to submit an application, plan, or monitoring data establishing its eligibility for the funds will, beginning with FY 1995 be reallocated to the nonparticipating State program on September 30 of the fiscal year for which the funds were appropriated. Reallocated funds will be competitively awarded to eligible recipients pursuant to program announcements published in the **Federal Register**.

§ 31.302 Applicant State agency.

(a) Pursuant to section 223(a)(1), section 223(a)(2) and section 299(c) of the JJDP Act, the State must assure that the State agency approved under section 299(c) has been designated as the sole

agency for supervising the preparation and administration of the plan and has the authority to implement the plan.

(b) *Advisory Group.* Pursuant to section 223(a)(3) of the JJDP Act, the Chief Executive:

(1) Shall establish an advisory group pursuant to section 223(a)(3) of the JJDP Act. The State shall provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this section of the Act.

(2) Should consider, in meeting the statutory membership requirements of section 223(A)(3) (A)–(E), appointing at least one member who represents each of the following: A locally elected official representing general purpose local government; a law enforcement officer; representatives of juvenile justice agencies, including a juvenile or family court judge, a probation officer, a prosecutor, and a person who routinely provides legal representation to youth in juvenile court; a public agency representative concerned with delinquency prevention and treatment; a representative from a private, non-profit organization, such as a parents group, concerned with teenage drug and alcohol abuse; a high school principal; a recreation director; a volunteer who works with delinquent or at risk youth; a person with a special focus on the family; a youth worker experienced with programs that offer alternatives to incarceration; persons with special competence in addressing programs of school violence and vandalism and alternatives to expulsion and suspension; and persons with knowledge concerning learning disabilities, child abuse, neglect, and youth violence.

(c) The State shall assure that it complies with the Advisory Group financial support requirement of section 222(d) and the composition and function requirements of section 223(a)(3) of the JJDP Act.

§ 31.303 Substantive requirements.

(a) *Assurances.* The State must certify through the provision of assurances that it has complied and will comply (as appropriate) with sections 223(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (16), (17), (18), (19), (20), (21), (22), and (25), and sections 229 and 261(d), in formulating and implementing the State plan. The Formula Grant Application kit provides a form and guidance for the provision of assurances. OJJDP interprets the section 223(a)(16) assurance as satisfied by an affirmation that State law and/or policy clearly require equitable treatment on the required bases; or by providing in the State plan that the State agency will require an assurance of equitable treatment by all Formula Grant subgrant and contract recipients, and establish as a program goal, in conjunction with the State Advisory Group, the adoption and implementation of a statewide juvenile justice policy that all youth in the juvenile justice system will be treated equitably without regard to gender, race, family income, and mentally, emotionally, or physically handicapping conditions. OJJDP interprets the section 223(a)(25) assurance as satisfied by a provision in the State plan for the State agency and the State Advisory Group to promulgate policies and budget priorities that require the funding of programs that are part of a comprehensive and coordinated community system of services as set forth in section 103(19) of the JJDP Act. This requirement is applicable when a State's formula grant for any fiscal year exceeds 105 percent of the State's formula grant for FY 1992.

(b) *Serious Juvenile Offender Emphasis.* Pursuant to sections 101(a)(10) and 223(a)(10) of the JJDP Act, OJJDP encourages States that have identified serious and violent juvenile offenders as a priority problem to allocate formula grant funds to programs designed for serious and violent juvenile offenders at a level consistent with the extent of the problem as identified through the State planning process. Particular attention should be given to improving prosecution, sentencing procedures, providing resources necessary for effective rehabilitation, and facilitating the coordination of services between the juvenile justice and criminal justice systems.

(c) *Deinstitutionalization of Status Offenders and Non-Offenders.* Pursuant to section 223(a)(12)(A) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable covering the three-year planning cycle, for assuring that the requirements of this section are met. Refer to § 31.303(f)(3) for the rules related to the valid court order exception to this Act requirement.

(2) Describe the barriers the State faces in achieving full compliance with the provisions of this requirement.

(3) *Federal Wards.* Apply this requirement to alien juveniles under Federal jurisdiction who are held in State or local facilities.

(4) *DSO compliance.* Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(12)(A) may, in lieu of addressing paragraphs (c)(1) and (2) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(5) Submit the report required under section 223(a)(12)(B) of the Act as part of the annual monitoring report required by section 223(a)(15) of the Act.

(d) *Contact with incarcerated adults.*

(1) Pursuant to section 223(a)(13) of the JJDP Act the State shall:

(i) *Separation.* Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term ''contact'' is defined to include any sight and sound contact between juveniles in a secure custody status and incarcerated adults, including inmate trustees. Sound contact is further defined to mean any oral communication between incarcerated adults and juveniles. Separation must be accomplished in all secure areas of the facility which include, but are not limited to: sallyports within the secure perimeter of the facility, other entry areas, all passageways (hallways), admissions, sleeping, toilet and shower, dining, recreational, educational, vocational, health care, and other areas as appropriate.

(ii) In those instances where accused juvenile criminal-type offenders are authorized to be temporarily detained in facilities where adults are confined, the State must set forth the procedures for assuring no sight or sound contact between such juveniles and confined adults.

(iii) Describe the barriers which may hinder the separation of alleged or adjudicated criminal type offenders, status offenders and non-offenders from incarcerated adults in any particular jail, lockup, detention or correctional facility.

(iv) Those States which, based upon the most recently submitted monitoring report, have been found to be in compliance with section 223(a)(13) may, in lieu of addressing paragraphs (d)(1)(i), (ii), and (iii) of this section, provide an assurance that adequate plans and resources are available to maintain compliance.

(v) Assure that adjudicated offenders are not reclassified administratively and transferred to an adult (criminal) correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. This does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed

juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to juvenile correctional authority for placement.

(2) *Implementation.* The requirement of this provision is to be planned and implemented immediately by each State.

(e) *Removal of Juveniles From Adult Jails and Lockups.* Pursuant to section 223(a)(14)of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable for assuring that requirements of this section will be met beginning after December 8, 1985. Refer to § 31.303(f)(4) to determine the regulatory exception to this requirement.

(2) Describe the barriers which the State faces in removing all juveniles from adult jails and lockups. This requirement excepts only those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed, or juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges.

(3) *Collocated facilities.*

(i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups, except as otherwise provided under the Act and implementing OJJDP regulations. Juvenile facilities collocated with adult facilities are considered adult jails or lockups unless the paragraph (e)(3)(i)(D)(*1*)–(*4*) criteria established in this section are complied with and the determinations and concurrences set forth in paragraph (e)(3)(ii), (iii), and (iv) of this section have been made.

(A) A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered ''related'' when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer), or the specialized services that are allowable under paragraph (e)(3)(i)(D)(*3*) of this section.

(B) The State, with OJJDP concurrence, must determine whether a collocated facility qualifies as a separate juvenile detention facility under the four criteria set forth in Paragraph (e)(3)(i)(D)(*1*)–(*4*) of this section for the purpose of monitoring compliance with section 223(a)12(A), (13) and (14) of the JJDP Act.

(C) A needs based analysis must precede a jurisdiction's request for State approval and be included with the request for OJJDP concurrence that a collocated facility qualifies as a juvenile detention facility. The needs based analysis should include, but is not limited to, consideration of such factors as excessive travel time to an existing juvenile detention center, crowding in an existing facility (despite the use of objective detention criteria), obsolescence of an existing facility, and, in areas where there are no juvenile detention facilities, a measurable increase in the need for juvenile detention beds. OJJDP's technical assistance provider to the States should be involved in the needs based analysis (without cost to the State or local jurisdiction). The needs based analysis must take into consideration and be coordinated with the State's plans and programs designed to establish a continuum of detention care and to assist detention facilities to provide a full range of services for juvenile offenders.

(D) Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:

(*1*) Total separation between juvenile and adult facility spatial areas such that there could be no sight or sound contact between juveniles and incarcerated adults in the facility. Total separation of spatial areas can be achieved architecturally, and must provide for no common use areas (time-phasing is not permissible).

(*2*) Total separation in all juvenile and adult program areas, including recreation, education, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention center which provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. However, equipment and other resources may be used by both populations subject to security concerns and the criterion in paragraph (e)(3)(i)(D)(*1*) of this section.

(*3*) Separate staff for the juvenile and adult populations, including management, security, and direct care staff. Staff providing specialized services (food service, laundry, maintenance and engineering, etc.) who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both populations (subject to State standards or licensing requirements). The day to day management, security and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population within the collocated facilities; and

(*4*) In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no State standards or licensing requirements, then the jurisdiction must cooperate in a preapproval review of its physical plant, staffing patterns, and programs by an organization selected and compensated by OJJDP. This review will be based on prevailing national juvenile detention standards, and will inform the State's approval process and concurrence by OJJDP.

(ii) The State must initially determine that the four criteria are fully met. Upon such determination, the State must submit to OJJDP a request for concurrence with the State's finding that a separate juvenile detention facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each criterion has been met. It is incumbent upon the State to make the initial determination through an on-site facility (or full construction and operations plan) review and, through the exercise of its oversight responsibility, to ensure that the separate character of the juvenile detention facility is maintained by continuing to fully meet the four criteria set forth above in paragraphs (e)(3)(i)(D)(*1*)–(*4*) of this section.

(iii) Collocated juvenile detention facilities approved by the State and concurred with by OJJDP on or before June 30, 1995 are to be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence, except that facilities approved after the effective date of this regulation, but prior to July 1, 1995, shall be reviewed against the regulatory criteria in effect on the day before the effective date of this regulation, and except that all collocated facilities are subject to the separate staff requirement established by the 1992 Amendments to the JJDP Act, and set forth in paragraph (e)(3)(i)(D)(*3*) of this section. Unless otherwise indicated, review of previously approved collocated

facilities is expected to occur as part of the State's regularly scheduled monitoring activities.

(iv) OJJDP's concurrence for facilities considered after June 30, 1995 is limited to one year and thereafter, will be reviewed on an annual basis. An annual on-site review of the facility must be conducted by the compliance monitoring staff person(s) representing or employed by the State agency administering the JJDP Act Formula Grants Program. OJJDP's concurrence is required annually, and may involve on-site review by OJJDP staff. The purpose of the annual review is to determine if compliance with the criteria set forth in paragraphs (e)(3)(i)(D)(*1*)–(*4*) of this section is being maintained, and to assess the continuing need for the collocated facility and the jurisdiction's long term plan to move to a free-standing facility (single jurisdiction or regional) or other detention alternative, unless the juvenile detention center is part of a justice center, in which case the annual review will look solely at the four regulatory criteria. An example of a justice center is a building or a set of buildings in which various agencies are housed, such as law enforcement, courts, State's attorneys, public defenders, and probation, in addition to an adult jail or lockup, and a juvenile detention facility.

(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(14) may, in lieu of addressing paragraphs (e) (1) and (2) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(f) *Monitoring of Jails, Detention Facilities and Correctional Facilities.*

(1) Pursuant to section 223(a)(15) of the JJDP Act, and except as provided by paragraph (f)(7) of this section, the State shall:

(i) Describe its plan, procedure, and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each of the following tasks including the identification of the specific agency(s) responsible for each task.

(A) *Identification of monitoring universe:* This refers to the identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public and private agencies.

(B) *Classification of the monitoring universe:* This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

(C) *Inspection of facilities:* Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include:

(*1*) A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and

(*2*) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a) (12), (13) and/or (14).

(D) *Data collection and data verification:* This is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable requirement(s) of section 223(a) (12), (13) and/or (14). The length of the reporting period should be 12 months of data, but in no case less than 6 months. If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act, the plan must describe a statistically valid procedure used to verify the reported data.

(ii) Provide a description of the barriers which the State faces in implementing and maintaining a monitoring system to report the level of compliance with section 223(a) (12), (13), and (14) and how it plans to overcome such barriers.

(iii) Describe procedures established for receiving, investigating, and reporting complaints of violation of section 223(a) (12), (13), and (14). This should include both legislative and administrative procedures and sanctions.

(2) For the purpose of monitoring for compliance with section 223(a)(12)(A) of the Act a secure detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders, or used for the lawful custody of accused or convicted adult criminal offenders.

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile. Prior to issuance of the order, the juvenile must have received the full due process rights guaranteed by the Constitution of the United States.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected In the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juveniles may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile alleged or found in a violation hearing to have violated a Valid Court Order may be held only in a secure juvenile detention or correctional facility, and not in an adult jail or lockup.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceeding;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3) (i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community. This determination must be preceded by a written report to the judge that: reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by an appropriate public agency (other than a court or law enforcement agency). A multidisciplinary review team that operates independently of courts or law enforcement agencies would satisfy this requirement even if some individual members of the team represent court or law enforcement agencies.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

(4) *Removal exception (section 223(a)(14)).* The following conditions must be met in order for an accused juvenile criminal-type offender, awaiting an initial court appearance, to be detained up to 24 hours (excluding weekends and holidays) in an adult jail or lockup:

(i) The State must have an enforceable State law requiring an initial court appearance within 24 hours after being taken into custody (excluding weekends and holidays);

(ii) The geographic area having jurisdiction over the juvenile is outside a metropolitan statistical area pursuant to the Bureau of Census' current designation;

(iii) A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the State and approved by OJJDP;

(iv) The adult jail or lockup must have been certified by the State to provide for the sight and sound separation of juveniles and incarcerated adults; and

(v) The State must provide documentation that the conditions in paragraphs(f)(4)(i) through (iv) of this section have been met and received prior approval from OJJDP. OJJDP strongly recommends that jails and lockups that incarcerate juveniles be required to provide youth specific admissions screening and continuous visual supervision of juveniles incarcerated pursuant to this exception.

(vi) Pursuant to section 223(a)(14) of the JJDP Act, the non-MSA (low population density) exception to the jail and lockup removal requirements as described in paragraphs (f)(4)(i) through (v) of this section shall remain in effect through 1997, and shall allow for secure custody beyond the twenty four hours period described in paragraph (f)(4)(i) of this section when the facility is located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within twenty four hours, so that a brief (not to exceed an additional forty eight hours) delay is excusable; or the facility is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until twenty four hours after the time that such conditions allow for reasonably safe travel. States may use these additional statutory allowances only where the precedent requirements set forth in paragraphs (f)(4)(i) through (v) of this section have been complied with. This may necessitate statutory or judicial (court rule or opinion) relief within the State from the twenty four hours initial court appearance standard required by paragraph (f)(4)(i) of this section. States must document and describe in their annual monitoring report to OJJDP, the specific circumstances surrounding each individual use of the distance/ground transportation, and weather allowances.

(5) Reporting requirement. The State shall report annually to the Administrator of OJJDP on the results of monitoring for section 223(a)(12),(13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than six months. The report shall be submitted to the Administrator of OJJDP by December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) Total number of public and private secure detention and correctional facilities, the total number reporting, and the number inspected on-site;

(C) The total number of accused status offenders and nonoffenders, including out-of-State runaways and Federal wards, held in any secure detention or correctional facility for longer than twenty four hours (not including weekends or holidays), excluding those held pursuant to the valid court order provision as set forth in paragraph (f)(3) of this section or pursuant to section 922(x) of title 18, United States Code, or a similar State law;

(D) The total number of accused status offenders (including valid court order violators, out of state runaways, and Federal wards, but excluding Title 18 922(x) violators) and nonoffenders securely detained in any adult jail, lockup, or nonapproved collocated facility for any length of time;

(E) The total number of adjudicated status offenders and nonoffenders, including out-of-state runaways and Federal wards, held for any length of time in a secure detention or correctional facility, excluding those held pursuant to the valid court order provision or pursuant to title 18 U.S.C. section 922(x);

(F) The total number of status offenders held in any secure detention or correctional facility pursuant to the valid court order provision set forth in paragraph (f)(3) of this section; and

(G) The total number of juvenile offenders held pursuant to title 18 U.S.C. section 922(x).

(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and nonoffenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the extent of compliance with section 223(a)(13) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months and the number inspected on-site;

(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide sight and sound separation;

(D) The total number of juvenile offenders and nonoffenders not separated from adult criminal offenders in facilities used for the secure detention and confinement of both juveniles and adults;

(E) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have been concurred with by OJJDP, including a list of such facilities;

(F) The total number of juveniles detained in collocated facilities concurred with by OJJDP that were not separated from the management, security or direct care staff of the adult jail or lockup;

(G) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have not been concurred with by OJJDP, including a list of such facilities; and

(H) The total number of juveniles detained in collocated facilities not approved by the State and concurred with by OJJDP, that were not sight and sound separated from adult criminal offenders.

(iv) To demonstrate the extent of compliance with section 223(a)(14) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of adult jails in the State AND the number inspected on-site;

(C) The total number of adult lockups in the State AND the number inspected on-site;

(D) The total number of adult jails holding juveniles during the past twelve months;

(E) The total number of adult lockups holding juveniles during the past twelve months;

(F) The total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and collocated facilities not concurred with by OJJDP, in excess of six hours (including those held pursuant to the ''removal exception'' as set forth in paragraph (f)(4) of this section);

(G) The total number of accused juvenile criminal-type offenders held securely in adult jails, lockups and collocated facilities not concurred with by OJJDP for less than six hours for purposes other than identification, investigation, processing, release to parent(s), transfer to court, or transfer to a juvenile facility following initial custody;

(H) The total number of adjudicated juvenile criminal-type offenders held securely in adult jails or lockups and collocated facilities not concurred with by OJJDP for any length of time;

(I) The total number of accused and adjudicated status offenders (including valid court order violators) and nonoffenders held securely in adult jails, lockups and collocated facilities not concurred with by OJJDP, for any length of time;

(J) The total number of adult jails, lockups, and collocated facilities not concurred with by OJJDP, in areas meeting the ''removal exception'' as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which each is located;

(K) The total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than 24 hours in adult jails, lockups and collocated facilities not concurred with by OJJDP pursuant to the ''removal exception'' as set forth in paragraph (f)(4) of this section;

(L) The total number of juveniles accused of a criminal-type offense who were held in excess of 24 hours but not more than an additional 48 hours in adult jails, lockups and collocated facilities not concurred with by OJJDP pursuant to the ''removal exception'' as noted in paragraph (f)(4) of this section, due to conditions of distance or lack of ground transportation; and

(M) The total number of juveniles accused of a criminal-type offense who were held in excess of 24 hours, but not more than an additional 24 hours after the time such conditions as adverse weather allow for reasonably safe travel, in adult jails, lockups and collocated facilities not concurred with by OJJDP, in areas meeting the ''removal exception'' as noted in paragraph (f)(4) of this section.

(6) *Compliance.* The State must demonstrate the extent to which the requirements of sections 223(a)(12)(A), (13), (14), and (23) of the Act are met. If the State fails to demonstrate full compliance with sections 223(a)(12)(A) and (14), and compliance with sections 223(a)(13) and (23) by the end of the fiscal year for any fiscal year beginning with fiscal year 1994, the State's allotment under Section 222 will be reduced by twenty five percent for each such failure, provided that the State will lose its eligibility for any allotment unless: the State agrees to expend all remaining funds (except planning and administration, State advisory group set-aside funds and Indian tribe pass-through funds) for the purpose of achieving compliance with the mandate(s) for which the State is in noncompliance; or the Administrator makes discretionary determination that the State has substantially complied with the mandate(s) for which there is noncompliance and that the State has made through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time. In order for a determination to be made that a State has substantially complied with the mandate(s), the State must demonstrate that it has: Diligently carried out the plan approved by OJJDP; demonstrated significant progress toward full compliance; submitted a plan based on an assessment of current barriers to DMC; and provided an assurance that added resources will be expended, be it formula grants or other funds, to achieve compliance. Where a State's allocation is reduced, the amount available for planning and administration and the required pass-through allocation, other than State advisory group set-aside, will be reduced because they are based on the reduced allocation.

(i) Substantial compliance with section 223(a)(12)(A) can be used to demonstrate eligibility for FY 1993 and prior year formula grant allocations if, within three years of initial plan submission, the State has achieved a seventy five percent reduction in the aggregate number of status offenders and nonoffenders held in secure detention or correctional facilities, or removal of 100 percent of such juveniles from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance by FY 1994. Full compliance is achieved when a State has removed 100 percent of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with de minimis exceptions pursuant to the policy criteria contained in the **Federal Register** of January 9, 1981 (46 FR 2566–2569).

(ii) Compliance with section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that

were in violation of section 223(a)(13); or

(B) (*1*) State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of section 223(a)(13);

(*2*) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(*1*) of this section;

(*3*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and

(*4*) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(*1*) of this section are such that the instances of noncompliance are unlikely to recur in the future.

(iii) (A) Full compliance is achieved when a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14).

(B) Full compliance with de minimis exceptions is achieved when a State demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(B) (*1*) or (*2*) of this section:

(*1*) *Substantive De Minimis Standard.* To comply with this standard the State must demonstrate that each of the following requirements have been met:

(*i*) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(*ii*) All instances of noncompliance reported in the last submitted monitoring reported were in violation of or departures from, the State law, rule, or policy referred to In paragraph (f)(6)(iii)(B)(*1*)(*i*) of this section;

(*iii*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(*iv*) Existing mechanisms for the enforcement of the State law, rule or policy referred to in paragraph (f)(6)(iii)(B)(*1*)(*i*) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(*v*) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(B)(*1*)(*iv*) of this section.

(*2*) *Numerical De Minimis Standard.* To comply with this standard the State must demonstrate that each of the following requirements under paragraphs (f)(6)(iii)(B)(2) (*i*) and (*ii*) of this section have been met:

(*i*) The incidents of noncompliance reported in the State's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the State; and

(*ii*) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(*iii*) *Exception.* When the annual rate for a State exceeds 9 incidents of noncompliance per 100,000 juvenile population, the State will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the State has recently enacted changes in State law which have gone into effect and which the State demonstrates can reasonably be expected to have a substantial, significant and positive impact on the state's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(*iv*) *Progress.* Beginning with the monitoring report due by December 31, 1990, any State whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(B)(*2*)(*i*) of this § 31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(*v*) Request Submission. Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any State reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(B) (*1*) or (*2*) of this section. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual State plan and application for the State's formula grant award.

(C) *Waiver.* Failure to achieve full compliance as defined in this section shall terminate any State's eligibility for FY 1993 and prior year formula grant funds unless the Administrator of OJJDP waives termination of the State's eligibility. ln order to be eligible for this waiver of termination, a State must request a waiver and demonstrate that it meets the standards set forth in paragraphs (f)(6)(iii)(C) (1)–(7) of this section:

(*1*) Agrees to expend all of its formula grant award except planning and administration, advisory group set-aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(*2*) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lock-ups for any length of time; or that all status offenders and nonoffenders securely detained in adult jails and lock-ups for any length of time were held in violation of an enforceable State law and did not constitute a pattern or practice within the State; and

(*3*) Made meaningful progress in removing juvenile criminal-type offenders from adult jails and lockups. Compliance with this standard requires the State to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223 (a)(14) of the JJDP Act; or a significant reduction in the number of facilities securely detaining such juveniles; or a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lock-up; or State legislation has recently been enacted and taken effect and which the State demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lock-ups; and

(*4*) Diligently carried out the State's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the State's jail and lock-up removal goals and objectives within approved time lines, and that the State Advisory Group, required by section 223 (a)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the State's plan; and

(*5*) Submitted an acceptable plan, based on a assessment of current jail

and lockup removal barriers within the State, to eliminate noncompliant incidents; and

(6) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(7) Demonstrates an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance.

(D) *Waiver Maximum.* A State may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(C) of this section for a combined maximum of four Formula Grant Awards through Fiscal Year 1993. No additional waivers will be granted.

(7) *Monitoring report exemption.* States which have been determined by the OJJDP Administrator to have achieved full compliance with sections 223(a)(12)(A), (a)(14), and compliance with section 223(a)(13) of the JJDP and wish to be exempted from the annual monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:

(i) The State provides for an adequate system of monitoring jails, law enforcement lockup, detention facilities, to enable an annual determination of State compliance with sections 223(a)(12)(A), (13), and (14) of the JJDP Act;

(ii) State legislation has been enacted which conforms to the requirements of Sections 223(a)(12)(A), (13), and (14) of the JJDP Act; and

(iii) The enforcement of the legislation is statutorily or administratively prescribed, specifically providing that:

(A) Authority for enforcement of the statute is assigned;

(B) Time frames for monitoring compliance with the statute are specified; and

(C) Adequate procedures are set forth for enforcement of the statute and the imposition of sanctions for violations.

(g) *Juvenile crime analysis.* Pursuant to section 223(a)(8), the State must conduct an analysis of juvenile crime problems, including juvenile gangs that commit crimes, and juvenile justice and delinquency prevention needs within the State, including those geographical areas in which an Indian tribe performs law enforcement functions. The analysis and needs assessment must include educational needs, gender specific services, delinquency prevention and treatment services in rural areas, and mental health services available to juveniles in the juvenile justice system. The analysis should discuss barriers to accessing services and provide a plan to provide such services where needed.

(1) *Analysis.* The analysis must be provided in the multiyear application. A suggested format for the analysis is provided in the Formula Grant Application Kit.

(2) *Product.* The product of the analysis is a series of brief written problem statements set forth in the application that define and describe the priority problems.

(3) *Programs.* Applications are to include descriptions of programs to be supported with JJDP Act formula grant funds. A suggested format for these programs is included in the application kit.

(4) *Performance Indicators.* A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the program level to measure whether objectives and performance goals have been achieved and should relate to the measures used in the problem statement and statement of program objectives.

(h) *Annual Performance Report.* Pursuant to section 223(a) and section 223(a)(22) the State plan shall provide for submission of an annual performance report. The State shall report on its progress in the implementation of the approved programs, described in the three-year plan. The performance indicators will serve as the objective criteria for a meaningful assessment of progress toward achievement of measurable goals. The annual performance report shall describe progress made in addressing the problem of serious juvenile crime, as documented in the juvenile crime analysis pursuant to section 223(a)(8)(A). The annual performance report must be submitted to OJJDP no later than June 30 and address all formula grant activities carried out during the previous complete calendar year, federal fiscal year, or State fiscal year for which information is available, regardless of which year's formula grant funds were used to support the activities being reported on, e.g., during a reporting period, activities may have been funded from two or more formula grant awards.

(i) *Technical Assistance.* States shall include, within their plan, a description of technical assistance needs. Specific direction regarding the development and inclusion of all technical assistance needs and priorities will be provided in the ''Application Kit for Formula Grants under the JJDPA.''

(j) *Minority Detention and Confinement.* Pursuant to section 223(a)(23) of the JJDP Act, States must demonstrate specific efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., in most States, youth between ages ten-seventeen are subject to secure custody. It is essential that States approach this statutory mandate in a comprehensive manner. Compliance with this provision is achieved when a State meets the requirements set forth in paragraphs (j)(1) through (3) of this section:

(1) *Identification.* Provide quantifiable documentation (State, county and local level) in the State's FY 1994 Formula Grant Plan (and all subsequent Multi-Year Plans) Juvenile Crime Analysis and Needs Assessment to determine whether minority juveniles are disproportionately detained or confined in secure detention and correctional facilities, jails and lockups in relation to their proportion of the State juvenile population. Guidelines are provided in the OJJDP Disproportionate Minority Confinement Technical Assistance Manual (see Phase I Matrix). Where quantifiable documentation is not available to determine if disproportionate minority confinement exists in secure detention and correctional facilities, jails and lockups, the State must provide a time-limited plan of action, not to exceed six months, for developing and implementing a system for the ongoing collection, analysis and dissemination of information regarding minorities for those facilities where documentation does not exist.

(2) *Assessment.* Each State's FY 1994 Formula Grant Plan must provide a completed assessment of disproportionate minority confinement. Assessments must, at minimum, identify and explain differences in arrest, diversion and adjudication rates, court dispositions other than incarceration, the rates and periods of prehearing detention in and dispositional commitments to secure facilities of minority youth in the juvenile justice system, and transfers to adult court (see Phase II Matrix). If a completed assessment is not available, the State must submit a time-limited plan (not to exceed twelve months from submission of the Formula Grant Application) for completing the assessment.

(3) *Intervention.* Each State's FY 1995 Formula Grant Plan must, where disproportionate confinement has been demonstrated, provide a time-limited plan of action for reducing the disproportionate confinement of minority juveniles in secure facilities. The intervention plan shall be based on the results of the assessment, and must

include, but not be limited to the following:

(i) *Diversion.* Increasing the availability and improving the quality of diversion programs for minorities who come in contact with the juvenile justice system, such as police diversion programs;

(ii) *Prevention.* Providing developmental, operational, and assessment assistance (financial and/or technical) for prevention programs in communities with a high percentage of minority residents with emphasis upon support for community-based organizations (including non-traditional organizations) that serve minority youth;

(iii) *Reintegration.* Providing developmental, operational, and assessment assistance (financial and/or technical) for programs designed to reduce recidivism by facilitating the reintegration of minority youth in the community following release from dispositional commitments to reduce recidivism;

(iv) *Policies and procedures.* Providing financial and/or technical assistance that addresses necessary changes in statewide and local, executive, judicial, and legal representation policies and procedures; and

(v) *Staffing and training.* Providing financial and/or technical assistance that addresses staffing and training needs that will positively impact the disproportionate confinement of minority youth in secure facilities.

(4) The time-limited plans of action set forth in paragraphs (j) (1), (2) and (3) of this section must include a clear indication of current and future barriers; which agencies, organizations, or individual(s) will be responsible for taking what specific actions; when; and what the anticipated outcomes are. The interim and final outcomes from implementation of the time-limited plan of action must be reported in each State's Multi-Year Plans and Annual Plan Updates. Final outcomes for individual project awards are to be included with each State's annual performance report (See Paragraph (h) of this Section).

(5) Technical assistance is available through the OJJDP Technical Assistance Contract to help guide States with the data collection and analysis, and with programmatic elements of this requirement. Information from the OJJDP Special Emphasis Initiative on Disproportionate Minority Confinement pilot sites will be disseminated as it becomes available.

(6) For purposes of this statutory mandate, minority populations are defined as: African-Americans, American Indians, Asians, Pacific Islanders, and Hispanics.

(k) Pursuant to section 223(a)(24) of the JJDP Act, states shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the Formula Grant.

§ 31.304 Definitions.

(a) *Private agency.* A private non-profit agency, organization or institution is:

(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; and

(2) Any other agency, organization or institution which operates primarily for scientific, education, service, charitable, or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of section 501(c)(3) of the 1954 Internal Revenue Code.

(b) *Secure.* As used to define a detention or correctional facility this term includes residential facilities which include construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(c) *Facility.* A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

(d) *Juvenile who is accused of having committed an offense.* A juvenile with respect to whom a petition has been filed In the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.

(e) *Juvenile who has been adjudicated as having committed an offense.* A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.

(f) *Juvenile offender.* An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations by defined as State law, i.e., a criminal-type offender or a status offender.

(g) *Criminal-type offender.* A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(h) *Status offender.* A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(i) *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(j) *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(k) *Other individual accused of having committed a criminal offense.* An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.

(l) *Other individual convicted of a criminal offense.* An individual, adult or juvenile, who has been convicted of a criminal offense in court exercising criminal jurisdiction.

(m) *Adult jail.* A locked facility, administered by State, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

(o) *Valid court order.* The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word ''valid'' permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

(p) *Local private agency.* For the purposes of the pass-through requirement of section 223(a)(5), a local private agency is defined as a private non-profit agency or organization that

provides program services within an identifiable unit or a combination of units of general local government.

Subpart E—General Conditions and Assurances

§ 31.400 Compliance with statute.

The applicant State must assure and certify that the State and its subgrantees and contractors will comply with applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, as amended, and with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, as amended, and the provisions of the current edition of OJP Financial and Administrative Guide for Grants, M7100.1.

§ 31.401 Compliance with other Federal laws, orders, circulars.

The applicant State must further assure and certify that the State and its subgrantees and contractors will adhere to other applicable Federal laws, orders and OMB circulars. These general Federal laws and regulations are described in greater detail in the Financial and Administrative Guide for Grants, M7100.1, and the Formula Grant Application Kit.

§ 31.402 Application on file.

Any Federal funds awarded pursuant to an application must be distributed and expended pursuant to and in accordance with the programs contained in the applicant State's current approved application. Any departures therefrom, other than to the extent permitted by current program and fiscal regulations and guidelines, must be submitted for advance approval by the Administrator of OJJDP.

§ 31.403 Civil rights requirements.

The State assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Section 809(c) of the Omnibus Crime Control and Safe Streets Act as 1968, as amended, and made applicable by section 299(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(b) Title VI of the Civil Rights Act of 1964, as amended;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975;

(f) The Department of Justice NonDiscrimination regulations, 28 CFR part 42, subparts C, D, E, and G;

(g) The Department of Justice regulations on disability discrimination, 28 CFR parts 35 and 39; and

(h) Subtitle A, title II of the Americans with Disabilities Act (ADA) of 1990.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Part III

Department of Education

Federal Pell Grant Program; Need Analysis Methodology for 1996–97 Award Year, Revision; Notice

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs; Revision of the Need Analysis Methodology for the 1996–97 Award Year

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education announces the annual update to the tables used in the need analysis methodology that an institution of higher education must use in calculating expected family contributions for the 1996–97 award year under the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant), Federal Family Education Loan and William D. Ford Federal Direct Loan programs. The Secretary takes this action under the authority of Title IV of the Higher Education Act of 1965, as amended (HEA).

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, General Provisions Branch, Policy Development Division, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3053, ROB–3), Washington, DC. 20202–5444, telephone (202) 708–7888. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The need analysis methodology is used to determine student eligibility for assistance under Title IV of the HEA. This methodology, referred to as the Federal Needs Analysis Methodology, is used to calculate the expected family contribution (EFC) for the Federal Pell Grant, the campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant), Federal Family Education Loan, and William D. Ford Federal Direct Loan programs. This methodology is established by statute.

Federal Needs Analysis Methodology

Part F of Title IV of the HEA specifies the criteria, data elements, calculations, and tables for the computation of expected family contributions for the Federal Pell Grant, campus-based, Federal Family Education Loan, and William D. Ford Federal Direct Loan programs. In addition, section 478 requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation for the 12 months between December 31 of the previous year and December 31 of the current year. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 1996–97, the Secretary is charged with updating the income protection allowances, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 1994 and December 1995. However, since the Secretary must publish these tables before December 1995, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 1994. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 1994 through December 1995 will be 3.0 percent. The updated tables for the 1996–97 award year are set forth in sections 1, 2, and 4.

The Secretary must also revise, for each award year, the table on asset protection allowance as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 1996–97 has been updated below in section 3.3.

Section 477(b)(5) also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5.

The HEA provides for the following annual updates:

1. Income Protection Allowance

This allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The allowance is offset against the family's income and varies by family size. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for the award year 1996–97 are:

Family size (including student)	Number in College				
	1	2	3	4	5
2	$11,480	$9,510	.....	.....	.....
3	$14,290	$12,340	$10,380	.....	.....
4	$17,650	$15,690	$13,740	$11,770	.....
5	$20,830	$18,860	$16,910	$14,950	$12,990
6	$24,360	$22,400	$20,450	$18,480	$16,530

For each additional family member add $2,750.
For each additional college student subtract $1,950.

2. Adjusted Net Worth (NW) of a Business or Farm

A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since: (1) The income produced from such assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0.
1 to $80,000	0+40% of NW.
80,001 to $245,000	32,000+50% of NW over $80,000.
245,001 to $410,000	114,500+60% of NW over $245,000.
410,001 or more	213,500+100% of NW over $410,000.

3. Education Savings and Asset Protection Allowance

This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is	And there are	
	two parents	one parent
		Then the education savings and asset protection allowance is—
25 or less	0	0
26	2,300	1,600
27	4,600	3,300
28	7,000	4,900
29	9,300	6,500
30	11,600	8,200
31	13,900	9,800
32	16,200	11,400
33	18,600	13,100
34	20,900	14,700
35	23,200	16,300
36	25,500	18,000
37	27,800	19,600
38	30,200	21,200
39	32,500	22,900
40	34,800	24,500
41	35,500	25,000
42	36,400	25,600
43	37,300	26,100
44	38,300	26,700
45	39,200	27,200
46	40,300	27,900
47	41,300	28,600
48	42,300	29,300
49	43,700	29,800
50	44,800	30,500
51	45,900	31,300
52	47,400	32,000
53	48,500	33,000
54	50,100	33,700
55	51,600	34,500
56	53,200	35,500
57	54,800	36,400
58	56,500	37,400
59	58,200	38,300
60	60,000	39,400
61	62,100	40,500
62	64,300	41,700
63	66,200	42,900
64	68,400	44,100
65 and older	70,800	45,500

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And the student is	
	Married	Single
		Then the education savings and asset protection allowance is—
25 or less	0	0
26	2,300	1,600
27	4,600	3,300
28	7,000	4,900
29	9,300	6,500
30	11,600	8,200
31	13,900	9,800
32	16,200	11,400
33	18,600	13,100
34	20,900	14,700
35	23,200	16,300
36	25,500	18,000
37	27,800	19,600
38	30,200	21,200
39	32,500	22,900
40	34,800	24,500
41	35,500	25,000
42	36,400	25,600
43	37,300	26,100
44	38,300	26,700
45	39,200	27,200
46	40,300	27,900
47	41,300	28,600
48	42,300	29,300
49	43,700	29,800
50	44,800	30,500
51	45,900	31,300
52	47,400	32,000
53	48,500	33,000
54	50,100	33,700
55	51,600	34,500
56	53,200	35,500
57	54,800	36,400
58	56,500	37,400
59	58,200	38,300
60	60,000	39,400
61	62,100	40,500
62	64,300	41,700
63	66,200	42,900
64	68,400	44,100
65 and older	70,800	45,500

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And the student is	
	Married	Single
		Then the education savings and asset protection allowance is—
25 or less	0	0
26	2,300	1,600
27	4,600	3,300
28	7,000	4,900
29	9,300	6,500
30	11,600	8,200
31	13,900	9,800
32	16,200	11,400
33	18,600	13,100
34	20,900	14,700
35	23,200	16,300

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is	And the student is	
	Married	Single
		Then the education savings and asset protection allowance is—
36	25,500	18,000
37	27,800	19,600
38	30,200	21,200
39	32,500	22,900
40	34,800	24,500
41	35,500	25,000
42	36,400	25,600
43	37,300	26,100
44	38,300	26,700
45	39,200	27,200
46	40,300	27,900
47	41,300	28,600
48	42,300	29,300
49	43,700	29,800
50	44,800	30,500
51	45,900	31,300
52	47,400	32,000
53	48,500	33,000
54	50,100	33,700
55	51,600	34,500
56	53,200	35,500
57	54,800	36,400
58	56,500	37,400
59	58,200	38,300
60	60,000	39,400
61	62,100	40,500
62	64,300	41,700
63	66,200	42,900
64	68,400	44,100
65 and older	70,800	45,500

4. Assessment Schedules and Rates

Two separate assessment schedules—one for dependent students, and one for independent students with dependents other than a spouse—are used in determining the expected family contribution toward educational expenses from family financial resources.

For dependent students, the expected parental contribution is derived from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of financial strength which considers both income and assets.

INDEPENDENT STUDENTS

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
$3,409 to $10,300	22% of AAI.

INDEPENDENT STUDENTS—Continued

If AAI is—	Then the contribution is—
$10,301 to $12,900	$2,266 +25% of AAI over $10,300.
$12,901 to $15,500	$2,916 +29% of AAI over $12,900.
$15,501 to $18,100	$3,670 +34% of AAI over $15,500.
$18,101 to $20,700	$4,554 +40% of AAI over $18,100.
$20,701 or more	$5,594 +47% of AAI over $20,700.

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
$3,409 to $10,300	22% of AAI.
$10,301 to $12,900	$2,266 +25% of AAI over $10,300.
$12,901 to $15,500	$2,916 +29% of AAI over $12,900.
$15,501 to $18,100	$3,670 +34% of AAI over $15,500.

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If AAI is—	Then the contribution is—
$18,101 to $20,700	$4,554 +40% of AAI over $18,100.
$20,701 or more	$5,594 +47% of AAI over $20,700.

5. Employment Expense Allowance

This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two-earner family compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without

dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $2,600 or 35 percent of earned income.

6. Allowance for State and Other Taxes

This allowance for state and other taxes protects a portion of the parents' and student's income from being considered available for postsecondary education expenses. There are four tables for state and other taxes, one each for parents of dependent students, dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is	And parents' total income is—	
	less than $15,000 or	$15,000 of more
		Then the percentage is—
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is	And student's total income is—	
	less than $15,000 or	$15,000 or more
		Then the percentage is—
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

Independent Students Without Dependents Other Than a Spouse

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

Dated: May 24, 1995.

David A. Longanecker

Assistant Secretary for Postsecondary Education

[FR Doc. 95–13199 Filed 5–30–95; 8:45 am]

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Wednesday
May 31, 1995

Part IV

Department of Housing and Urban Development

Office of the Secretary

Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[FR–3864–N–01]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers. Request: October 1, 1994 through December 31, 1994.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department (HUD) is required to make public all approval actions taken on waivers of regulations. This notice is the sixteenth in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this Notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone 202–708–3055; TDD: (202) 708–3259. (These are not toll-free numbers.) For information concerning a particular waiver action, about which public notice is provided in this document, contact the person whose name and address is set out, for the particular item, in the accompanying list of waiver-grant action.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by the Department. Section 106 of the Act (Section 7(q)(3)) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q)(3), provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by publishing a Notice in the **Federal Register**. These Notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purposes of today's document.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives Issued by HUD (56 FR 16337, April 22, 1991). This is the sixteenth Notice of its kind to be published under Section 106. It updates HUD's waiver-grant activity from October 1, 1994 through December 31, 1994.

For ease of reference, waiver requests grant by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 24.200 (involving the waiver of a provision in Part 24) would come early in the sequence, while waivers in the Section 8 and Section 202 programs (24 CFR Chapter VIII) would be among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in Title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 811.105(b) and § 811.107(a) would appear sequentially in the listing under § 811.105(b).) Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occur between April 1, 1995 through June 30, 1995.

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the Appendix that follows this Notice.

Dated: May 22, 1995.

Henry G. Cisneros,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development October 1, 1994 through December 31, 1994

Note to Reader: The person to be contacted for additional information about these waiver-grant items in this listing is: James B. Mitchell, Director, Financial Services Division, Office of Housing, Department of Housing and Urban Development, 470 L'Enfant Plaza East, room 3119, Washington, DC 20024, Phone: (202) 755–7450.

1. REGULATION: 24 CFR Sections 811.106(d) and 811.107(d) of 1977 Regulations.

PROJECT/ACTIVITY: The Louisville Housing Authority refunding of bonds which financed an uninsured Section 8 assisted project, Carrousel Apartments, Project Number 083–35365.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-FHA Commissioner

DATE GRANTED: December 28, 1994

REASONS WAIVED: The Part 811 regulations cited were intended for original bond financing transactions and do not fit the terms of refunding transactions. This refunding proposal was approved by HUD on December 1, 1994. Refunding bonds have been priced to an average yield of 7.49%. The tax-exempt refunding bond issue of $6,120,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11%–12% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the mortgage interest rate at expiration of the HAP contract from 12% to 8.28%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for lower income families after subsidies expire, a priority HUD objective.

2. REGULATION: 24 CFR Sections 811.106(d) and 811.107(d) of 1977 Regulations.

PROJECT/ACTIVITY: Cuyahoga Metropolitan (Ohio) HA refunding of bonds which financed an uninsured Section 8 assisted project: Ambleside Elderly Apartments, HUD Project Number OH16–0013–012, in Cleveland, Ohio.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption

of multifamily housing revenue bonds from Federal income taxation.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-FHA Commissioner

DATE GRANTED: December 28, 1994

REASONS WAIVED: The Part 811 regulations cited above prohibited refundings and required that excess reserve balances be used for project purposes. The issuer has requested HUD permission to release excess reserve balances from the 1977 Trust Indenture for use in providing newly constructed or rehabilitated housing for low-income families. Issuance of 1994 refunding bonds under Section 103 of the Tax Code will not reduce project debt service nor generate Section 8 savings. The Housing Authority will agree to extend low-income occupancy in this project for 10 years after expiration of the Housing Assistance Payments Contract.

3. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: Cuyahoga County (Ohio) Metropolitan Housing Authority refunding of bonds which financed Section 8 assisted projects, Rock Glen and Chester Village Apartments (FHA No. 042–35394 and 042–35407).

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: October 19, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on October 12, 1994. Refunding bonds have been priced to an average yield of 7.12%. The tax-exempt refunding bond issue of $3,110,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9.25%–10.5% at the call date with tax-exempt bonds yielding 7.12%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 10.5% and 9.75% to 8.5% and 7.25%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues, (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

4. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: Berne, Indiana, HDC refunding of bonds which financed Section 8 assisted project, the Swiss Meadows Apartments (FHA No. 073–35378).

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: October 24, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on September 8, 1994. Refunding bonds have been priced to an average yield of 7.45%. The tax-exempt refunding bond issue of $1,875,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10¼% at the call date with tax-exempt bonds yielding 7.45%. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 10.5% and 8.3%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

5. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: Greensboro, North Carolina HDC refunding of bonds which financed two Section 8 assisted projects, Gatewood Manor Apartments, FHA No. 053–35404 and Laurence Manor, FHA No. 053–35427.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: October 25, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on August 23, 1994. Refunding bonds have been priced to an average yield of 6.65%. The tax-exempt refunding bond issue of $1,910,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.8% at the call date in 1994 with tax-exempt bonds yielding 6.65%. The refunding will also substantially reduce project debt service at expiration of the HAP contracts, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for lower income families after subsidies expire, a priority HUD objective.

6. REGULATION: 24 CFR Sections 811.107(a)(2), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: The Housing Finance Corporation of Paterson, New Jersey refunding of bonds which financed a Section 8 assisted project, Aspen-Hamilton Apartments, FHA No. 031–35233.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: October 25, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on August 9, 1994. Refunding bonds have been priced to an average yield of 7.25%. The tax-exempt refunding bond issue of $3,175,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.5% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 10.75% to 7.9%, thus reducing FHA mortgage insurance risk, and will provide funds of $50,000 for project repairs. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

7. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(A)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: The Akron (Ohio) Metropolitan Housing Authority refunding of bonds which financed a Section 8 assisted project, Briarwood Estates Apartments, FHA No. 042–35337.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: November 10, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on August 23, 1994. Refunding bonds have been priced to an average yield of 7.19%. The tax-exempt refunding bond issue of $3,750,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 9.5% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 9.375% to 6.52%, thus reducing FHA mortgage insurance risk, and will provide funds of $44,544 for project repairs. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

8. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(a)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: The Raleigh (North Carolina) Housing Authority refunding of bonds which financed a Section 8 assisted project, Pine Village Apartments FHA No. 053–35551.

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: November 16, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on February 7, 1994. Refunding bonds have been priced to an average yield of 7.41%. The tax-exempt refunding bond issue of $1,300,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.45% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 10.73% to 7.9%, thus reducing FHA mortgage insurance risk. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

9. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(A)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: The Elizabeth City (North Carolina) Housing Authority refunding of bonds which financed a Section 8 assisted project, Virginia Dare Apartments (FHA No. 053–35371).

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: December 27, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on December 20, 1994. Refunding bonds have been priced to an average yield of 7.11%. The tax-exempt refunding bond issue of $2,150,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.9% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract, from(12% to 7.87%, thus reducing FHA mortgage insurance risk, and will provide funds of $198,000 for project repairs. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

10. REGULATION: 24 CFR Sections 811.107(a)(2), 811.107(b), 811.108(A)(1), 811.108(a)(3), 811.114(b)(3), 811.114(d), 811.115(b).

PROJECT/ACTIVITY: The Erie County (Pennsylvania) Housing Authority refunding of bonds which financed a Section 8 assisted project, Edinlake Apartments (FHA No. 033–35148).

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation and authorize call of debentures prior to maturity.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: December 28, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions. To credit enhance refunding bonds not fully secured by the FHA mortgage amount, HUD also agrees not to exercise its option under 24 CFR Section 207.259(e) to call debentures prior to maturity. This refunding proposal was approved by HUD on December 20, 1994. Refunding bonds have been priced to an average yield of 7.15%. The tax-exempt refunding bond issue of $1,410,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 11.5% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding will also substantially reduce the FHA mortgage interest rate at expiration of the HAP contract from 11.78% to 7.6%, thus reducing FHA mortgage insurance risk, and will provide funds of $100,000 for project repairs. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

11. REGULATION: 24 CFR Sections 811.114(d), 811.115(b), 811.117.

PROJECT/ACTIVITY: The Housing Finance Corporation of Newark, New Jersey refunding of bonds which financed a Section 8 assisted project, Broadway Manor Apartments (FHA No. 031–35235).

NATURE OF REQUIREMENT: The Regulations set conditions under which HUD may grant a Section 11(b) letter of exemption of multifamily housing revenue bonds from Federal income taxation.

GRANTED BY: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner

DATE GRANTED: November 16, 1994

REASONS WAIVED: The Part 811 regulations cited above were intended for original bond financing transactions and do not fit the terms of refunding transactions under Section 103 of the Tax Code. This refunding proposal was approved by HUD on October 21, 1994. Refunding bonds have been priced to an average yield of 7.51%. The tax-exempt refunding bond issue of $3,824,000 at current low-interest rates will save Section 8 subsidy. The Treasury also gains long-term tax revenue benefits through replacement of outstanding tax-exempt coupons of 10.8% at the call date in 1994 with tax-exempt bonds at a substantially lower interest rate. The refunding serves the important public purposes of reducing HUD's Section 8 program costs, improving Treasury

tax revenues (helping reduce the budget deficit), and increasing the likelihood that projects will continue to provide housing for low-income families after subsidies expire, a priority HUD objective.

Note to the reader: The person to be contacted for additional information about these waiver-grant items is:

Debbie Ann Wills, Field Management Officer, U.S. Department of Housing & Urban Development, Office of Community Planning and Development, 451 7th Street, S.W., Washington, D.C. 20410–7000, Telephone: (202) 708–2565.

12. REGULATION: CFR 51.102(a)(3) and 51.104(b)(2)

PROJECT/ACTIVITY: Leland Apartments a Section 811 project containing 24 units designed for the handicapped.

NATURE OF REQUIREMENT: The regulations require that for a project exposed to unacceptable noise levels an environmental impact statement must be conducted.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: October 14, 1994.

REASONS WAIVED: It was determined that the project met the requirements of Section 51.104(b)(2) of the noise regulation in that noise is the only environmental issue and no outdoor noise sensitive use will take place.

13. REGULATION: 24 CFR 91.60(c)

NATURE OF REQUIREMENT: The Assistant Secretary used the waiver authority of 24 CFR 91.99 to waive the provision of 24 CFR 91.60 (c) that requires a 30-day public comment period on the proposed CHAS for all FY 1995 New York HUD-administered Small Cities applicants.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: December 5, 1994

REASONS WAIVED: The waiver will give Small Cities applicants time to prepare the required CHAS and apply for funding under the Small Cities Program in a more timely manner.

14. REGULATION: 24 CFR 92.214(a)(8)

PROJECT/ACTIVITY: The City of Homestead, Florida requested a waiver to allow HOME funds to be used to reimburse the City's general fund for the cost of land which it had previously donated to the Homestead Housing Authority.

NATURE OF REQUIREMENT: The new regulations at 92.214(a)(8) prohibit the use of HOME funds ''to pay for the acquisition of property owned by the participating jurisdiction.''

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 18, 1994

REASONS WAIVED: The waiver was granted because the City of Homestead was in a unique situation due to Hurricane Andrew and the waiver was granted for good cause.

15. REGULATION: 24 CFR 92.216 and 24 CFR 92.252(a)(3)

PROJECT/ACTIVITY: The City of Santa Monica is requesting a waiver of 24 CFR 92.216 and 92.252(a)(3) of the HOME program regulations.

NATURE OF REQUIREMENT: The regulations at 92.216 and 92.252(a)(3) state income targeting requirements allow HOME funds to be used only in units where the occupants are or will be low-income families.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: December 27, 1994

REASON WAIVED: The City of Santa Monica determined that many of the tenants whose homes were damaged by the earthquake were low-income but not all those displaced were low-income. To further the completion of the project and to allow former tenants to return to the project the income determination requirements of the HOME program were waived.

16. REGULATION: 24 CFR 92.221(a)(3)

PROJECT/ACTIVITY: The State of California requested a waiver of the match credit under 24 CFR 92.221(a)(3).

NATURE OF REQUIREMENT: The regulations at 24 CFR 92.221(a)(3) require a match of HOME funds with local funds.

GRANTED BY: Andrew Cuomo, Assistant Secretary of Community Planning and Development

DATE GRANTED: October 14, 1994

REASON WAIVED: Good cause was found to grant a waiver of 24 CFR 92.221(a)(3) for HOME projects owned by California non-profit organizations to allow the present discounted value of the welfare tax exemption to be counted up front as match for the HOME program.

17. REGULATION: 24 CFR 92.222(b)

PROJECT/ACTIVITY: The State of Alabama requested that the match reduction made because the area was declared a natural disaster area be extended for Fiscal 1995.

NATURE OF REQUIREMENT: Under the HOME Program, each participating jurisdiction must match its allocation of HOME Program funds. Jurisdictions designated federal ''natural disaster areas'' are given relief from the match requirements for one year.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

REASON WAIVED: To relieve the jurisdiction of coming up with matching funds that would delay the use of HOME funds in an emergency situation.

18. REGULATION: 24 CFR 92.251(a)

PROJECT/ACTIVITY: The State of Arizona requested a waiver for Navajo County to permit rehabilitation which utilizes HOME funds, without bringing the unit into compliance with HUD housing quality standards (HQS) due to remote location and/or inaccessible utilities.

NATURE OF REQUIREMENT: Section 92.251(a) provides that housing assisted with HOME funds meet, at a minimum, HUD housing quality standards, and provides other minimum standards for substantial rehabilitation and new construction.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 18, 1994

REASON WAIVED: The waiver was granted because housing stock and cultural conditions are quite different in the remote area of the Navajo County and it would be prohibitively expensive to meet HQS. This waiver applies only to those instances where rehabilitation will not bring the unit to the level of HQS requirements due to the remote location and/or inaccessibility of utilities.

19. REGULATION: 24 CFR 92.252(a)(2)

NATURE OF REQUIREMENT: Developers of the Spring Homes Project requested a waiver of the HOME Program rent limitations.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: December 27, 1994

REASONS WAIVED: The Department recognizes that a difference exists between the rent requirement of the HOME program and the project-based rent structure of the Section 811 program consequently it was determined that there was good cause to waive the 24 CFR 92.252(a)(2).

20. REGULATION: 24 CFR 92.502(g)

PROJECT/ACTIVITY: The State of Rhode Island is requesting a waiver of Section 92.502(g) of the HOME program regulations on behalf of the City of Providence.

NATURE OF REQUIREMENT: The regulations at 92.502(g) state that a State and local participating jurisdiction (PJ) may jointly fund a project within the boundaries of the PJ, however, the State must designate the local PJ as a state recipient and that recipient must set up the project on the Cash and Management Information System.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 17, 1994

REASONS WAIVED: Because the State is responsible for overall administration of both projects and the bulk of the financing is from the State it is more reasonable for the State to set up the project on the CMI system. It was determined that failure to grant the waiver would adversely impact the purposes of Title II of the National Affordable Housing Act.

21. REGULATION: 24 CFR 291.400

PROJECT/ACTIVITY: The Anoka County Community Action Program requested a waiver of the 24 month residency for a tenant in a single family property leased under the single family property disposition homeless program.

NATURE OF THE REQUIREMENT: The regulations at 291.400 prohibit a nonprofit organization or a community participating in the Single Family Property Disposition Leasing Program from extending a lease to the same tenant for a period beyond 24 months.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATED GRANTED: October 27, 1994

REASONS WAIVED: The waiver will allow a formerly homeless family with three minor children more time to find permanent housing.

22. REGULATION: 24 CFR 511.76(h) and 24 CFR 92.220(a)(1)(i)

PROJECT/ACTIVITY: The City of Hickory North Carolina requested a waiver of program closeout requirements of the Rental Rehabilitation program.

NATURE OF REQUIREMENT: The regulations at 24 CFR 511.76(h) and the HOME match requirements of 24 CFR 92.220(a)(1)(i) state that program income from Rental Rehabilitation grant can only be used as HOME match only after closeout of the applicable Rental Rehabilitation grant.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 1994

REASONS WAIVED: The North Carolina Housing Finance Agency (NCHFA), the Rental Rehabilitation grantee, had not yet met the requirements for program closeout. However, the City of Hickory, as a subrecipient of the State, has closed out all of its RRP grants and was receiving program income from them. The waiver allowed the City to use its program income to provide affordable rental housing to low-income residents.

23. REGULATION: 24 CFR 570.200(h)

PROJECT/ACTIVITY: The City of West Allis, Wisconsin requested a waiver of 24 CFR 570.200(h) regarding reimbursement of pre-agreement costs for the Veteran's Park Redevelopment Project.

NATURE OF REQUIREMENT: Under the regulations, a locality is precluded from obligating CDBG funds before grant award.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: December 6, 1994

REASONS WAIVED: HUD determined that failure to grant the waiver would cause hardship and adversely affect the purposes of the Act. The waiver of the limitations on pre-agreement costs at 24 CFR 570.200(h) will permit the reimbursement of local funds for the Veteran's Park Redevelopment Project with FY 1995 and 1996 CDBG funds.

24. REGULATION: 24 CFR 570.208(a)(3)

PROJECT/ACTIVITY: The City of Oakland, California requested a waiver of the CDBG regulations at 24 CFR 570.208(a)(3).

NATURE OF THE REQUIREMENT: The regulations at 24 CFR 570.208(a)(3) require, as a general rule, that CDBG-assisted housing structures principally benefit low- and moderate-income households.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 18, 1994

REASONS WAIVED: The waiver would allow less than 100 percent of single family homes at a 36-unit Planned Unit Development to be sold to low- and moderate-income households. The Department has determined that the City has demonstrated that application of 24 CFR 570.208(a)(3) would create undue hardship and adversely affect the purposes of the Act because it would impose an economic hardship on low- and moderate-income buyers other than the number to be subsidized.

25. REGULATION: 24 CFR 570.208(a)(3)

PROJECT/ACTIVITY: The City of Dallas, Texas requested a waiver of the CDBG regulations at 24 CFR 570.208(a)(3)

NATURE OF REQUIREMENT: The regulations at 24 CFR 570.208(a)(3) require, as a general rule, that CDBG-assisted housing structures principally benefit low- and moderate-income households.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 18, 1994

REASON WAIVED: The waiver would allow less than 51 percent low- and moderate-income occupancy of 3 projects rehabilitated through the Section 108 program, as long as the percentage of Section 108 funds applied to each project will not constitute a greater percentage of funds than the percentage of units occupied by low- and moderate-income households.

26. REGULATION: 24 CFR 576.55(b)

PROJECT/ACTIVITY: The City of Binghamton, New York requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

NATURE OF REQUIREMENT. The community requested a waiver of the cap of essential services placed on ESG funds.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: December 27, 1994

REASONS WAIVED: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other (eligible activities under the program are already being carried out in the locality with other resources.'' The City provided an analysis that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

27. REGULATION: 24 CFR 576.55(b)(1)

PROJECT/ACTIVITY: The City of Cleveland Ohio requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.55(b)(1).

NATURE OF THE REQUIREMENT: The regulations at 24 CFR 576.55(b)(1) require that the city obligate its current year's ESG grant within 180 days.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 18, 1994

REASONS WAIVED: The City entered into a contract with a nonprofit agency to develop a program design and business plan to implement the continuum of care approach to serving the homeless. Budgetary details of the contract were not finalized by the end of the obligation deadline. HUD determined that enforcing the regulatory requirements would cause undue hardship on the grantee and adversely affect the purposes of the ESG program.

28. REGULATION: 24 CFR 576.55(b)(1) and 24 CFR 576.21

PROJECT/ACTIVITY: The State of Massachusetts requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

NATURE OF REQUIREMENT: The community requested a waiver of the cap of essential services placed on ESG funds.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 9, 1994

REASONS WAIVED: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The State certified that its own shelters and nonprofit shelters have developed sufficient capacity to provide for every family that needs shelter, therefore, it was determined that the waiver was appropriate.

29. REGULATION: 24 CFR 576.55(b)(2) and 24 CFR 576.21

PROJECT/ACTIVITY: Jersey City, New Jersey requested a waiver of the requirement to spend its ESG funds within 24 months of grant award. The community also requested a waiver of the cap of essential services placed on ESG funds.

NATURE OF REQUIREMENT: The regulations at 24 CFR 576.55 state that each formula city or county must spend all its ESG grant amount within 24 months of the grant awarded by HUD. The Stewart B. McKinney Homeless Assistance Act imposes a cap on ESG expenditures for essential services.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: October 25, 1994

REASONS WAIVED: The two waivers were granted to further the purposes of the Act. Because ESG monies were returned to the line-of-credit, the time extension waiver was granted. The essential services waiver was granted because the city could demonstrate that the other eligible activities under the program are already being carried out in the locality with other resources.

30. REGULATION: 24 CFR 808.408(b)

PROJECT/ACTIVITY: The Allen Metropolitan Housing Authority of the State of Ohio requested a waiver which would allow the PHA to utilize a gross rent for one of its SRO projects that would exceed the applicable Fair Market Rent limitation permitted in its agreement with HUD.

NATURE OF REQUIREMENT: The SRO regulations at 24 CFR 882.408(b) state that the initial gross rent for any project must not exceed the moderate rehabilitation FMR applicable to the unit on the date the agreement is executed.

GRANTED BY: Andrew Cuomo, Assistant Secretary for Community Planning and Development

DATE GRANTED: November 21, 1994

REASON WAIVED: It was determined that the PHA had taken all reasonable actions to reduce the gross rents to within the applicable FMR. So for project development to proceed, the FMR was increased beyond the amount stated in the agreement.

Note to Reader: The person to be contacted for additional information about the waiver-grant items in this listing: Gary VanBuskirk, Director Homeownership Division, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 4112, Washington, D.C. 20410, Phone: (202) 708–4233, (This is not a toll-free number).

31. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1)

Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Nashua, New Hampshire Housing Authority (NHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limits a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The authority proposed to utilize unobligated funds for a Career Path Program in conjunction with Girl's Inc., N.H. Vocational Technical College and the N.H. Job Training Partnership Council for the residents of their public housing projects. They have taken great care in planning properly to insure that the unobligated funds provide maximum benefits as well as an excellent opportunity for resident self-sufficiency. The NHA will submit a request to revise its budget allocation to conform to the proposed additional activities. Further action on the grant, however, was contingent on the extension being granted.

32. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the New Bern, North Carolina Housing Authority (NBHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its mini-planning grant NC19HM10050192.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limits a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The NBHA noted that it was impeded in carrying out grant activities due primarily to the reassignment of staff administering the grant as well as an unanticipated delay in incorporating resident groups at the two sites covered by the grant. The NBHA wished to proceed to continue to work with the resident councils which have been formed as well as to develop economic sufficiency programs to assist the residents in utilizing the unexpended funds remaining. Further action on the grant, however, was contingent on the extension being granted.

33. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Dover, New Hampshire Housing Authority (DHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limits a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The DHA noted that it had completed all of the activities originally proposed and still had remaining funds. The DHA wished to proceed with revised activities more in line with the current desires of the residents under the grant. After taking into consideration the diminished prospects of obtaining future HOPE funding, the DHA concluded that it needed to concentrate more on economic development planning activities. Towards that end, the DHA will submit a request to revise its budget allocation to conform to the proposed additional activities. Further action on the grant was contingent, however, on the extension being granted.

34. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Lawrence, Massachusetts Housing Authority (LHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limits a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The LHA noted that it had encountered unexpected delays due to a change in the outlook of the residents as the grant progressed. The LHA wished to proceed with revised activities more in line with the current desires of the residents under the grant. After taking into consideration the diminished prospects of obtaining future HOPE funding, the LHA concluded that it needed to alter the emphasis of its efforts under the grant to concentrate more on economic development planning activities. Towards that end, the LHA would submit a request to revise its budget allocation to conform to the change in emphasis. Further action on the grant, however, would be contingent on the extension being granted.

35. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Knox County Housing Authority (KCHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The KCHA noted that it had encountered unexpected delays due to a change in the outlook of the residents as the grant progressed. The KCHA wished to proceed with revised activities more in line with the current desires of the residents under the grant. After taking into consideration the diminished prospects of obtaining future HOPE funding, the KCHA concluded that it needed to alter the emphasis of its efforts under the grant to concentrate more on economic development planning activities. Towards that end, the KCHA would submit a request to revise its budget allocation to conform to the change in emphasis. Further action on the grant, however, would be contingent on the extension being granted.

36. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1)

Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Charleston Human Rights Commission of Charleston, West Virginia (CHRC), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The CHRC noted that it had encountered unexpected delays due to a change in the leadership of the Littlepage Terrace Resident Management Corporation (LTRMC). The CHRC wished to proceed with revised activities more in line with the current desires of the residents under the grant. After taking into consideration the diminished prospects of obtaining future HOPE funding, the CHRC had concluded that it needed to extend its activities which were building the capacity of the residents as well as to plan for additional self-sufficiency activities. Further action on the grant, however, was contingent on the extension being granted.

37. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Glendale Resident Management Corporation (GRMC) of Minneapolis, Minnesota, a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant MN46HM0020192.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The GMRC noted that although it had made substantial progress in carrying out the grant, it has experienced difficulty in obtaining accurate information from the local housing authority resulting in unexpected delays in carrying out activities under the grant. The GMRC, though, desired to continue to move forward with grant activities. The extension would permit the GRMC to complete a proper physical analysis and financial feasibility study of homeownership. Further action on the grant, however, was contingent on the extension being granted.

38. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Division of Housing of the City of Indianapolis, Indiana (DHCI) and the Rowney Terrace Resident Management Corporation (RTRMC), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its Rowney Terrace development.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 17, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The DHCI/RTRMC noted that they had encountered unexpected delays due to a change in the leadership of the RTRMC. The DHCI/RTRMC wished to proceed with revised activities more in line with the current desires of the residents under the grant. After conducting a needs assessment under the grant, the DHCI/RTRMC had concluded that they need to alter the emphasis of their efforts under the grant to concentrate more on economic development planning activities. Towards that end, the DHCI/RTRMC submitted a request to revise their budget allocations to conform to the change in emphasis. Further action on the grant, however, was contingent on the extension being granted.

39. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Winston-Salem, North Carolina Housing Authority (WSHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its Townview development (NC19HM10120192).

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 18, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The WSHA noted that they had encountered unexpected delays due to an initial lack of participation on the part of the residents. The Resident participation had increased since the organization of a resident council. The WSHA wished to proceed with activities designed to further analyze and present possible options for homeownership to residents as well as to build the capacity of the resident organization. Further action on the grant, however, was contingent on the extension being granted.

40. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the City of Little Rock, Arkansas (HACLR), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its Amelia B. Ives development.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 18, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The HACLR noted that it had encountered unexpected delays in securing approval of its project management plan and its staff becoming familiar with what is permissible under the grant. The HACLR wished to proceed with revised activities. After taking into consideration the diminished prospects of obtaining future HOPE funding, the HACLR concluded that it needed to alter the emphasis of its efforts under the grants to consider alternative approaches to pursuing homeownership and to increase its emphasis on economic development planning activities. Further action on the grant, however, was contingent upon the extension being granted.

41. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1)

Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Jacksonville, Florida Department of Housing and Urban Development (JDHUD), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its Centennial Towers development (FL29HM10010992).

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 25, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The JDHUD noted that it had encountered unexpected delays due to difficulties in obtaining required approval from Jacksonville, Florida city government as well as an initial lack of participation on the part of the residents and changes in staff administering the grant. The JDHUD wished to proceed with planning activities designed to increase resident capacity and develop the resident management corporation. Further action on the grant, however, was contingent upon the extension being granted.

42. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Pompano Beach, Florida Community Development Corporation (PBCDC), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grant (FL29HM10280192).

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 25, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The PBCDC noted that it had encountered unexpected delays due to unexpected difficulty in completing the feasibility study and a lack of resident participation. The PBCDC wished to proceed with planning activities designed to foster resident self-sufficiency and economic development. Further action on the grant, however, was contingent upon the extension being granted.

43. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(3) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Ocala, Florida Housing Authority (OHA), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning at its N.H. Jones development (FL29HM10320192).

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limits a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 25, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The OHA noted that it had encountered unexpected delays due to lack of interest in homeownership for the units at the development, structural deficiencies in the development's units, and a lack of resident self-sufficiency. The OHA wished to proceed with planning activities designed to foster resident self-sufficiency and economic development. Further action on the grant, however, was contingent upon the extension being granted.

44. REGULATION: HOPE for Public and Indian Housing Homeownership (HOPE 1) Program, Guidelines, Section 301(b)(1) as published on January 14, 1992 (57 FR 1522).

PROJECT/ACTIVITY: To permit a HOPE 1 mini-planning grantee, the Jacksonville, Florida Tenant Advisory Council (JTAC), a time extension to carry out the activities specified in its grant agreement. This extension would be of benefit to the residents participating in homeownership planning under its HOPE 1 mini-planning grants FL29HM10010292, FL29HM10010392, FL29HM10010492, FL29HM10010592, FH29HM10010892, FL29HM10011092, FL29HM10011192, FL29HM10011392, FL29HM10011492.

NATURE OF REQUIREMENT: Section 301(b)(3) of the HOPE 1 Program Guidelines limit a HOPE 1 mini-planning grantee to carrying out activities funded under its grant within eighteen (18) months of the effective date of the mini-planning grant agreement.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 25, 1994

REASON WAIVED: Pursuant to Section 901 of the HOPE 1 Guidelines, a regulatory provision that is ''not otherwise required by law'' may be waived by the Assistant Secretary for Public and Indian Housing upon a determination of good cause, and upon documentation of the pertinent facts and grounds supporting the waiver.

Good cause was exhibited as follows:

The JTAC noted that it had encountered unexpected delays due to a changeover in a number of leadership positions and difficulty in dealing with a troubled housing agency. The JTAC wished to proceed with activities designed to further resident training and economic development planning. Further action on the grant, however, was contingent upon the extension being granted.

45. REGULATION: 24 CFR 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

PROJECT/ACTIVITY: Housing Opportunities Commission of Montgomery County (HOC), Maryland Turnkey III Homeownership Opportunity Program Projects MD 4–3 (Bel Pre Square), MD 4–6 Scattered Sites, MD 4–10 Scattered Sites, MD 4–11 (Tobytown). Conversion to low-income rental status.

NATURE OF REQUIREMENT: 24 CFR Subpart B and the Turnkey III Handbook define and govern the Turnkey III Homeownership Opportunity Program.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 21, 1994

REASON WAIVED: The Housing Opportunities Commission of Montgomery County, Maryland requested the ability to convert certain housing units of the HOC's projects MD 4–3, 4–6, 4–10, 4–11 to low-rent public housing' status.

The Department of Housing and Urban Development has established certain criteria and procedures by which to judge the efficacy of such a conversion on a case-by-case basis. After investigation of the circumstances, and in an attempt to assist the HOC to better serve its low-income tenants, the Department decided that granting this conversion was in the best interests of all concerned.

The conversion of Turnkey III units to low-income rental is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for this conversion.

46. REGULATION: 24 CFR 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

PROJECT/ACTIVITY: East St. Louis, Illinois Housing Authority (ESLHA), Turnkey III Homeownership Opportunity Program Projects IL001–014, 016, 018, 020, 022, 023, 024.

NATURE OF REQUIREMENT: 24 CFR Subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 22, 1994

REASON WAIVED: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), P.L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

47. REGULATION: 24 CFR 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

PROJECT/ACTIVITY: Lubbock, Texas Housing Authority (LHA), Turnkey III Homeownership Opportunity Program Project TX018–003

NATURE OF REQUIREMENT: 24 CFR Subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 14, 1994

REASON WAIVED: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), P.L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

48. REGULATION: 24 CFR 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

PROJECT/ACTIVITY: Prince Georges County, Maryland Department of Housing and Community Development (DHCD), Turnkey III Homeownership Opportunity Program Project MD15–5.

NATURE OF REQUIREMENT: 24 CFR Subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 15, 1994

REASON WAIVED: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), P.L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

49. REGULATION: 24 CFR 904 Subpart B (Turnkey III Homeownership Opportunity Program) and Corresponding Provisions of the Turnkey III Handbook (7495.3)

PROJECT/ACTIVITY: Atlanta, Georgia Housing Authority, Turnkey III Homeownership Opportunity Program Projects GA6–38, GA6–39, GA6–40, GA6–46, and GA6–51.

NATURE OF REQUIREMENT: 24 CFR Subpart B and the Turnkey III Handbook require that upon sale of a homeownership unit that the monies received be remitted to HUD to reduce the capital indebtedness on the project. Excess Residual Receipts and or Operating Reserves are also to be remitted to HUD.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 23, 1994

REASON WAIVED: Project debt forgiveness was authorized by the provisions of Section 3004 of the Housing and Community Development Reconciliation Amendments of 1985 (the Amendments), P.L. 99–272 (April 7, 1986), which amends Section 4 of the United States Housing Act of 1937. The Amendments authorized the Secretary of HUD to forgive outstanding principal and interest on loans made by the Secretary to Public Housing Agencies (PHAs)/Indian Housing Authorities (IHAs) and to cancel the terms of any contract with respect to repayment.

Turnkey III debt forgiveness, as authorized above, is implemented according to existing HUD procedures.

The housing authority has shown good cause and demonstrated compliance with all applicable regulatory requirements for debt forgiveness.

Note to Reader: The person to be contacted for additional information about these waivers is: MaryAnn Russ, Director, Office of Assisted Housing, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–1380 (This is not a toll-free number).

50. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Allen Metropolitan Housing Authority (AMHA) of Lima, OH, to permit the establishment of ceiling rents for its entire low-rent inventory.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly Income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 3, 1994

REASON WAIVED: AMHA has experienced vacancy problems due to families moving out when their rents begin to exceed those on the private market. The AMHA is developing a homeownership plan with its HOPE III Planning Grant, and ceiling rents is a key ingredient in maintaining eligible families as their income increases while awaiting completion of the homeownership plan and approval for its implementation.

51. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Newman Grove Housing Authority (NGHA) of Newman Grove, Nebraska, to permit the establishment of ceiling rents for seven of its one-bedroom units that are approximately 780 square feet.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 12, 1994

0REASON WAIVED: The NGHA has experienced a vacancy problem. Six of the seven small one-bedroom units in its 20-unit project were vacant most of the time. Non-elderly applicants were unwilling to pay 30% of their income for such a small apartment. The waiver was granted to enable NGHA to address its vacancy problem by improving its marketability to potential applicants.

52. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Housing and Redevelopment Authority of Tracy, Minneapolis (HRAT), to permit the establishment of ceiling rents for its 59 1-bedroom units.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the

following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated. GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 12, 1994

REASON WAIVED: HRAT began to experience high vacancy rates after the construction of other housing in the area, which offered larger units and more amenities. Due to the size of its units, the HRAT could not attract a sufficient number of applicants willing to pay 30% of income. The establishment of ceiling rents will enable HRAT to address its vacancy problem by improving its marketability to potential applicants.

53. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Pawnee City Housing Authority (PHA) of Pawnee City, NE, to permit the establishment of ceiling rents for its entire inventory.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 12, 1994

REASON WAIVED: The PCHA has experienced vacancy problems and has several families paying rents higher than those in the private market. In order to prevent turnovers due to rent increases and to attract applicants to vacant units, the PCHA was allowed to establish ceiling rents.

54. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Oshkosh Housing Authority (OHA) of Oshkosh, Nebraska, to permit the establishment of ceiling rents for its entire low-rent inventory.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 12, 1994

REASON WAIVED: OHA has had a sustained vacancy problem for several years. The establishment of ceiling rents will enable OHA to address its vacancy problem by improving its marketability to potential applicants.

55. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Puerto Rico Public Housing Administration (PRPHA), to permit the establishment of ceiling rents for all of its public housing units.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 7, 1994

REASON WAIVED: The PRPHA has experienced unequitable rents in comparison with private market housing due to the economic disparity among various localities in the Commonwealth. The establishment of ceiling rents will provide for the statutory minimum rent levels as required by statute, and reflect the economic disparity which exists between various Fair Market Rent (FMR) areas throughout the Commonwealth.

56. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Boulder County Housing Authority (BCHA) of Boulder, CO, to permit the establishment of ceiling rents for its entire inventory.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 15, 1994

REASON WAIVED: The establishment of ceiling rents for BCHA will assist families living in BCHA's developments who are making the transition from welfare to employment, or who have obtained higher-paying jobs. In order to prevent turnovers due to rent increases and to attract applicants to vacant units, the BCHA was allowed to establish ceiling rents.

57. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the Housing and Redevelopment Authority of Detroit Lakes, Minnesota (HRA), to permit the establishment of ceiling rents for its sole project, MN107001.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 22, 1994

REASON WAIVED: The HRA has experienced a vacancy problem. The HRA has experienced frequent turnover and refusals by applicants as 30 percent of their adjusted monthly income would be higher than the rents in the private market. In order to prevent turnovers due to rent increases and to attract applicants to vacant units, the HRA was allowed to establish ceiling rents.

58. REGULATION: 24 CFR Part 913.107(a)

PROJECT/ACTIVITY: A request was made by the St. Edward Housing Authority (SEHA) of St. Edward, Nebraska, to permit the establishment of ceiling rents for its 18-unit project NE 26P059001.

NATURE OF REQUIREMENT: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30% of Monthly Adjusted Income; (2) 10% of Monthly income; or (3) if the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 23, 1994

REASON WAIVED: SEHA has had a sustained vacancy problem for several years. The establishment of ceiling rents will enable SEHA to address its vacancy problem by improving its marketability to potential applicants.

59. REGULATION: 24 CFR Part 970

PROJECT/ACTIVITY: A request was made by the Housing Authority of the City of Dumas, Arkansas to temporarily convert one 3-bedroom unit for tenant services activities for a 4-year period.

NATURE OF REQUIREMENT: Under the terms of the Annual Contributions Contract (ACC), public housing agencies (PHAs) are required to maintain and operate its property as housing for low-income families. A PHA may not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining HUD approval.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 23, 1994

REASON WAIVED: The Authority received a $10,000 grant from the Bureau of Alcohol and Drug Abuse Prevention, Arkansas Department of Health, for a range of counseling activities for young people. The dwelling will serve as a meeting and counseling center for teenagers. There will be no structural change to the unit nor additional cost for the conversion.

Note to reader: The person to be contacted for additional information about these waiver-grant items in this listing is: Madeline Hastings, Director, Moderate Rehabilitation Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, Phone: (202) 708–3887, TDD: (202) 708–4594 (These are not toll-free numbers).

60. REGULATION: 24 CFR 984.306(b)

PROJECT/ACTIVITY: Housing Authority of Salt Lake City, Utah, Initial Occupancy Requirement for the Section 8 Family Self-Sufficiency (FSS) Program

NATURE OF REQUIREMENT: The regulation prohibits a Section 8 portability move by an FSS family within the first year of execution of the FSS contract of participation.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 19, 1994

REASON WAIVED: Waivers were granted for two families because it was determined that the move outside the jurisdiction of the public housing agency would help each family to achieve its FSS program goals.

61. REGULATION: 24 CFR 982.201

PROJECT/ACTIVITY: Waiver of Very Low-Income Requirement for Section 8 Certificate assistance for 48 families residing in the Mariner's Village complex in Portsmouth, New Hampshire.

NATURE OF REQUIREMENT: The regulation provides that eligible applicants for admission to the tenant-based Section 8 programs must either be very low-income families or fall within certain specified categories of low-income families.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 25, 1994

REASON WAIVED: Mariner's Village housing complex had been poorly maintained and was on the verge of bankruptcy when the City of Portsmouth became involved. The City is committed to assuring revitalization of the complex and its continued availability as affordable housing. The waiver was granted to protect in place families by ensuring that they do not become rent burdened or economically displaced as a result of the rent increases anticipated after rehabilitation of the complex.

62. REGULATION: 24 CFR 984.306(b)

PROJECT/ACTIVITY: Island County, Washington, Housing Authority, Initial Occupancy Requirement for the Section 8 Family Self-Sufficiency (FSS) Program

NATURE OF REQUIREMENT: The regulation prohibits a Section 8 portability move by an FSS family within the first year of execution of the FSS contract of participation.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 19, 1994

REASON WAIVED: The waiver allowed the Section 8 FSS program participant to move closer to her job which increased her chances of becoming financially self-sufficient and fully successful under the FSS program.

Note to Reader: The person to be contacted for additional information about the waiver-grant items in this listing is: John Comerford, Director, Financial Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Phone: (202) 708–1872 (This is not a toll-free number).

63. REGULATION: 24 CFR 990.109(b)(3)(iv)

PROJECT/ACTIVITY: Housing Authority of the City of Little Rock AR. In determining operating subsidy eligibility, a request was made to use an occupancy percentage of 67% for its fiscal years ending in 1994 and 1995.

NATURE OF REQUIREMENT: The regulation defines the term of a Comprehensive Occupancy Plan (COP) and requires (that a PHA that completes its COP without achieving a 97% occupancy percentage use a projected occupancy percentage of 97%.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 4, 1994

REASON WAIVED: The housing authority stated that there were circumstances beyond its control that were responsible for its high vacancy levels, including gang activity, high crime, and vandalism throughout the developments. The housing authority had submitted an application for the Vacancy Reduction Program. They have taken positive actions to develop a plan that addresses the vacancy problems and have sought funding to carry out that plan. In order to be supportive of the efforts and progress made to date, permission was granted to the actual occupancy percentage for the fiscal year ending in 1994, with the requirement that at least 60% of the resulting increase in operating subsidy is to be used for specific, identifiable actions to increase occupancy. The Housing Authority is responsible for developing a vacancy reduction strategy which will be approved by HUD. The request for a waiver for the fiscal year ending in 1995 was not approved. Under the provisions of the PFS regulation, the authority will be able to adjust its occupancy percentage for that year by the number of vacant units that are in a funded on-schedule modernization (vacancy reduction) program.

64. REGULATION: 24 CFR 990.109(b)(3)(iv)

PROJECT/ACTIVITY: Youngstown OH Metropolitan Housing Authority.

NATURE OF REQUIREMENT: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97 percent.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 4, 1994

REASON WAIVED: The PHA didn't submit a Comprehensive Occupancy Plan when first eligible but has been addressing its vacancy problems thought its Improvement Plan. It was able to exceed the goal established for its fiscal year ending 6/30/94, and is expected to do so again for its fiscal year ending 6/30/95. Both an Improvement Plan and a COP provide a format in which strategies and actions, as well as desired results, can be identified and measured. Both Plans also require the involvement of the Local HUD Office through monitoring and oversight. Because of these similarities, and in order to provide the same incentives to continue to achieve or exceed the occupancy goals of its Improvement Plan, the PHA was permitted to use 87% as the occupancy percentage for its fiscal year ending 6/30/94 and 88% for its fiscal year ending 6/30/95.

65. REGULATION: 24 CFR 990.109(b)(3)(iv)

PROJECT/ACTIVITY: Blue Earth City, MN HRA. A request was made by the Blue Earth City, MN Housing and Redevelopment Authority to use its actual occupancy rate of 78% in determining its operating subsidy eligibility for its fiscal year ending 6/30/95.

NATURE OF REQUIREMENT: A Housing Authority that has completed a Comprehensive Occupancy Plan (COP) without achieving a 97% occupancy percentage or having an average of five or fewer vacant units must use a projected occupancy rate of 97%.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: November 17, 1994

REASON WAIVED: The Blue Earth City Housing and Redevelopment Authority is a small Authority with 59 units of elderly housing. It has been experiencing a vacancy problem for the past several years attributable to small unit size, lack of upgrades, and competition from other subsidized projects. The housing authority has developed an Implementation Plan with a 5-year timetable in which it will seek funding for needed renovations and will undertake other vacancy reduction strategies such as increasing advertising and improving maintenance practices.

66. REGULATION: 24 CFR 990.109(b)(3)(iv)

PROJECT/ACTIVITY: Housing Authority of Kansas City, MO. In determining operating subsidy eligibility, a request was made to use an occupancy percentage of 60% for its fiscal year ending in 1994 and to use 59% for 1995.

NATURE OF REQUIREMENT: The regulations defines the term of a Comprehensive Occupancy Plan (COP) and requires that a PHA that completes its COP without achieving a 97% occupancy percentage use a projected occupancy percentage of 97%.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: December 23, 1994

REASON WAIVED: The housing authority has been placed into receivership and it has taken over a year for the Special Master to appoint a person to take effective control and be responsible and accountable for the operation. They have subsequently taken steps to develop vacancy reduction strategies which they will be implementing with oversight from both the Court and the Area Office. In order to be supportive of the efforts and progress made to date, permission was granted to use an occupancy percentage of 60% for the fiscal year ending in 1994 and 59% for the year ending in 1995 with the requirement that at least 60% of the resulting increase in operating subsidy is to be used for specific, identifiable actions to increase occupancy. The Housing Authority is responsible for developing a vacancy reduction strategy which will be approved by

HUD. In the fall of 1995, the local HUD office will conduct an on-site review to check and compare actual accomplishments to date against expected occupancy goals. A decision on the occupancy percentage for the fiscal year ending in 1996 will be based on the results of that review.

67. REGULATION: 24 CFR 990.110(d)

PROJECT/ACTIVITY: Seattle, WA Housing Authority. In determining the operating subsidy eligibility, a request was made to extend the deadline for submission of a request for adjustment to rental income.

NATURE OF REQUIREMENT: The PFS regulation imposes a 12-month deadline on submission of requests for rental income adjustments.

GRANTED BY: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing

DATE GRANTED: October 19, 1994

REASON WAIVED: The previous administration of the Housing Agency was not aware of their right to request this adjustment. This waiver was granted based on the Housing Agency's eligibility for an adjustment.

[FR Doc. 95–13191 Filed 5–30–95; 8:45 am]

BILLING CODE 4210–32–P

federal register

Wednesday
May 31, 1995

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro); Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26903; Special Federal Aviation Regulation (SFAR) No. 66–2]

RIN 2120–AF72

Prohibition Against Certain Flights Between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule replaces the flight prohibition implemented by the FAA in SFAR 66–1, which was made effective on August 26, 1993, and expired on August 26, 1994. This action prohibits the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of Federal Republic of Yugoslavia (Serbia and Montenegro). This action further prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight's origin or ultimate destination is Serbia and Montenegro. Exceptions are made for particular flights approved by the United States Government and for certain emergency operations. This action is necessary to implement Executive Order 12810 (1992) and UN Security Council Resolution 757 (1992) mandating an embargo of air traffic with Serbia and Montenegro.

DATES: *Effective date.* The removal of SFARs 66 and the addition of SFAR 66–2 are effective May 31, 1995. *Expiration date.* SFAR 66–2 expires June 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202–267–3515.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling 202–267–3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of the Advisory Circular No. 11–2A, which describes the application procedure.

Background

The FAA is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft and U.S. operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, requires the Administrator of the FAA to consider the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security as being in the public interest. In addition, 49 U.S.C. 40105(b)(A) requires the Administrator to exercise his authority consistently with the obligations of the United States Government under an international agreement.

One such international agreement is the Charter of the United Nations (the Charter) (59 Stat. 1031; 3 Bevans 1153 (1945)). Under Article 25 of the Charter, ''the members of the Untied Nations agree to accept and carry out the decision of the Security Council in accordance with the present Charter.'' Article 48(1) of the Charter further provides, in pertinent part, that ''[t]he action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all members of the United Nations. * * *''

On May 30, 1992, acting under Chapter VII of the Charter, the Security Council adopted Resolution 757, mandating an embargo of certain air traffic with Serbia and Montenegro. Paragraph 7(a) of Resolution 757 requires all states to deny permission to any aircraft to take off from, land in, or overfly their territory if the aircraft is destined to land in or has taken off from the territory of Serbia and Montenegro. An exception to this prohibition is made for flights that have been approved on the grounds of urgent humanitarian need by the Security Council Committee established by Security Council Resolution 724 (1991).

The United States Government has taken several actions to restrict air transportation between the United States, Serbia and Montenegro in accordance with Security Council Resolution 757. Section 2(d) of Executive Order 12810, issued by the President on June 5, 1992, prohibits ''[a]ny transaction by a United States person, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the Federal Republic of Yugoslavia (Serbia and Montenegro) * * * or the sale in the United States by any person holding authority under the Federal Aviation Act * * * of any transportation by air which includes any stop in the Federal Republic of Yugoslavia (Serbia and Montenegro).'' Section 2(e) of the Executive Order further prohibits:

> The granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or a continuation of that flight, is destined to land in or has taken off from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro).

Executive Order 12810 cites the President's authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), Section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. 1514), Section 301 of Title 3, United States Code (3 U.S.C. 301), and Section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(c)). In particular, the United Nations Participation Act provides that:

> Notwithstanding the provisions of any other law, whenever the United States is called upon by the [UN] Security Council to apply measures which said Council has decided * * * to be employed to give effect to its decisions under the [United Nations] Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, or regulations as may be prescribed by him, investigate, regulate, and prohibit, in whole or in part, economic relations of rail, sea, [and] air * * * between any foreign country or to any nation thereof or any person therein and the United States or any person subject to the jurisdiction thereof. * * *

On June 12, 1992, the Office of the Secretary of Transportation issued Order 92–6–27, which implements Executive Order 12810 by amending all Department of Transportation (DOT) certificates issued under Section 401 of the Act, all permits issued under Section 402 of the Act, and all exemptions from Section 401 and 402 accordingly.

On June 23, 1992, the FAA published SFAR 66, prohibiting the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of the Serbia and Montenegro (57 FR 28031). SFAR 66 also prohibited the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight is destined to land in or take off from the Serbia and Montenegro. After SFAR 66 expired on June 19, 1993, the FAA reinstated the prohibition against certain flights between the United States and the Serbia and Montenegro through

the issuance of SFAR 66–1 (58 FR 45220). SFAR No. 66–1 became effective on August 26, 1993, and expired on August 26, 1994.

Copies of Resolution 757 of the United National Security Council, Executive Order 12810, and DOT Order 92–6–27, all of which remain in effect, have been placed in the docket for this rulemaking.

Prohibition Against Certain Flights Between the United States, Serbia and Montenegro

On the basis of the above, and in support of the Executive Order of the President of the United States, I find that immediate action by the FAA is required to implement Executive Order 12810 and to meet the obligations of the United States under international law as evidenced by U.N. Security Council Resolution No. 757. Accordingly, I am ordering a prohibition on the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight that has Serbia and Montenegro as its origin or ultimate destination. Operations approved by the United States Government for approved purposes and certain emergency operations shall be expected from this prohibition. For the reasons stated above, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon publication. I also find that this action is fully consistent with my obligations under section 1102(a) of the Federal Aviation Act to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

The rule contains an expiration date of June 2, 1997 but may be terminated sooner or extended through the publication of a corresponding document if circumstances so warrant.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of commercial flights between the United States, Serbia and Montenegro and the cost of having to circumnavigate the territory by U.S.-registered aircraft. Revenue flights to Serbia and Montenegro are currently prohibited by DOT Order 92–6–27, and the FAA is unaware of any U.S.-registered private aircraft currently operating over Serbia and Montenegro. Accordingly, this action will impose no additional burden on commercial or private operators.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

International Trade Impact Assessment

DOT Order 92–6–27 prohibits U.S. and foreign air carriers from engaging in the sale of air transportation to or from Serbia and Montenegro. This SFAR does not impose any restrictions on commercial carriers beyond those imposed by the DOT Order. Therfore, the SFAR will not create a competitive advantage or disadvantage for foreign companies in the sale of aviation products or services in the United States, nor for domestic firms in the sale of aviation products or services in foreign countries.

Federalism Determination

The amendment set forth 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 (52 FR 4168; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a ''significant regulatory action'' under Executive Order 12866. This action is considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Serbia and Montenegro are already prohibited by DOT Order 92–6–27, the FAA certifies that this rule 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.

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Federal Republic of Yugoslavia, Freight, Montenegro, Serbia.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR Part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.;* E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. SFAR 66 which expired June 19, 1993, and SFAR 66 which expired August 26, 1994, are removed.

3. Special Federal Aviation Regulation (SFAR) No. 66–2 is added to read as follows:

Special Federal Aviation Regulation No. 66–2—Prohibition Against Certain Flights between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro)

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to all aircraft operations originating from, destined to land in, or overflying the territory of the United States.

2. *Special flight restrictions.* Except as provided in paragraphs 3 and 4 of this SFAR No. 66–2—

(a) No person shall operate an aircraft from any point in the United States to any point in the Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter ''Serbia and Montenegro''), a flight having any intermediate or ultimate destination in Serbia and Montenegro, or a flight that includes a landing at any point in Serbia and Montenegro in its intended itinerary;

(b) No person shall operate an aircraft to any point in the United States from any point in Serbia and Montenegro, or a flight from any intermediate point of departure where the origin of the flight is in Serbia and Montenegro, or a flight that includes a departure from any point in Serbia and Montenegro in its intended itinerary; or

(c) No person shall operate an aircraft over the territory of the United States if that aircraft's flight itinerary includes any landing at or departure from any point in Serbia and Montenegro.

3. *Permitted operations.* This SFAR shall not prohibit the flight operations between the United States, Serbia and Montenegro described in section 2 of this SFAR by an aircraft authorized to conduct such operations by the United States Government.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to

the extent required by that emergency. Any deviation required by an emergency shall be reported as soon as possible to the air traffic control facility having jurisdiction.

5. *Expiration*. This Special Federal Aviation Regulation expires June 2, 1997.

Issued in Washington, DC, on May 23, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–13131 Filed 5–30–95; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
May 31, 1995

Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Tribes, Acknowledgement of Existence Determinations for the Jena Band of Choctaw Indians and the Huron Potawatomi, Inc.; Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgment of the Jena Band of Choctaw Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8.

Pursuant to 25 CFR § 83.10(m), notice is hereby given that the Assistant Secretary acknowledges that the Jena Band of Choctaw Indians (Jena Choctaw), c/o Mr. Jerry D. Jackson, P.O. Box 14, Jena, Louisiana 71342–0014, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR § 83.7.

DATES: This determination is final and will become effective 90 days from publication of the final determination, pursuant to 25 CFR 83.10 (l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11.

A notice of the proposed finding to acknowledge the Jena Choctaw was published in the **Federal Register** on October 31, 1994 (Vol. 59, pt. II, No. 209, pp. 54496–7). The 180-day period provided for in the regulations for comment on the proposed finding closed April 29, 1995. This determination is made following a review of the public comments on the proposed finding to acknowledge the tribe.

The Jena Choctaw submitted a new membership roll during the comment period. There were no substantial comments or evidence submitted by interested parties or informed parties during the comment period. A letter supporting the proposed finding and recognition of the Jena Choctaw was submitted by the Mississippi Band of Choctaw Indians. Limited comments, not containing substantive new evidence or arguments, were received from two other parties. None of the comments refuted the proposed finding. The comments were considered but were determined to have no effect on the findings of fact or the decision to acknowledge the tribe. The Jena Choctaw by tribal council resolution of April 29, 1995, stated they had no response to the comments received and requested that the BIA waive the 60-day response period provided under 25 CFR 83.10 (k).

The proposed finding to acknowledge the Jena Choctaw determined that the petitioner fully met all seven of the criteria. The final determination affirms the proposed finding. It is based on the extensive evidence submitted by the Jena Choctaw or generated by the Branch of Acknowledgment and Research in the conduct of its own research in preparing the proposed finding and on a consideration of the new membership roll.

The Jena Choctaw directly descends from Choctaws who left the historic Mississippi Choctaw tribe and settled in Catahoula Parish, now LaSalle Parish, in the vicinity of Jena, Louisiana, prior to 1880 when they were first identified by the Federal census. The linguist Albert Gatschet reported finding three Choctaw families living in log huts on Trout Creek, Catahoula Parish in 1886. They were known locally as the Eden Indians, the Choctaw Indians on Trout Creek, and the Whatley Indians in reference to their residences or to the land owners with whom they were associated. After World War II, most of the tribe moved into the nearby town of Jena, Louisiana. They formally incorporated in 1974 as the Jena Band of Choctaw Indians, but usually refer to themselves as the Jena Choctaw. They have been identified as an Indian entity throughout their history until the present by the Federal Government, the State government, local authorities, scholars, the Mississippi Band of Choctaw, and other sources.

The Jena Choctaw maintained a separate and distinct Indian group through a high degree of in-group marriage. Before 1950, 85 percent of the marriages of members were to other members, and 50 percent of the existing marriages in 1959 were between members of the tribe. The Choctaw language was used almost exclusively by members of this Indian community until the late 1930's. The use of the Choctaw language continued in many households until the late 1950's, sustained in part by the high degree of in-group marriage. Close family ties, living in close proximity to one another, and shared community activities such as maintenance of the Indian cemetery have demonstrated that the group maintained a distinct, cohesive community in the last three decades to the present.

A traditional leader or chief conducted the affairs of the Indian community, led the group in burial practices, and conducted marriages until the late 1930's. Although the traditional leader's role was less active after World War II, he continued to organize community support to meet the needs of the membership. In addition, informal leaders exhibited political influence within the Choctaw community during the 1950's and 1960's which continued after the death of the last traditional leader in 1968. Since 1974, the Jena Choctaw have elected their leaders and members have continued to participate in the governance of the tribe.

The Jena Choctaw have a constitution and by-laws which define the membership and reflect how they govern themselves.

The revised membership roll submitted during the comment period has an additional 32 members who were not listed on the membership roll dated October 1993, which was used for the proposed finding. The additional individuals are the children and grandchildren of individuals on the previous roll. All members on the October 1993 roll had ¼ or more Choctaw blood quantum. All of the new members have ⅛ or more Choctaw blood quantum, and thus they meet the membership requirements prescribed in the Jena constitution.

Every member descends from at least one ancestor who was identified as a Choctaw Indian on the Federal censuses and/or who was identified as a full-blood Mississippi Choctaw on the 1903 preliminary roll of the Dawes Commission. Thus, they continue to meet the requirements of the regulations for descent from the historic tribe.

Although the new list increases the membership by approximately 20 percent (from 157 to 189), it does not change the basic community of the Jena Choctaw. Of the 32 new members, 9 are children born since October 1993, and 13 more are children under the age of 21. The other 10 are grandchildren of members listed in 1993. Sixty-five percent of the new members live in Jena and the surrounding area.

Under 25 CFR 83.12(b), the revised roll dated April 3, 1995, and approved by the Jena tribal council, will be considered as the base roll of the Jena Choctaw for Federal funding and other administrative purposes.

Members of the Jena Choctaw were not found to be members of any other acknowledged Indian tribe. Neither the tribe nor its members have been the subject of Congressional legislation which has expressly forbidden a relationship with the Federal Government.

The Jena Choctaw has met all seven criteria under 25 CFR 83.7 for Federal acknowledgment as an Indian tribe.

This determination is final and will become effective 90 days from the date of publication, unless a request for reconsideration is filed pursuant to § 83.11. The petitioner or any interested party may file a request for reconsideration of this determination with the Interior Board of Appeals (§ 83.11(a)(1)). The petitioner's or interested party's request must be received no later than 90 days after publication of the Assistant Secretary's determination in the **Federal Register** (§ 83.11(a)(2)).

Dated: May 18, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–13171 Filed 5–30–95; 8:45 am]

BILLING CODE 4310–02–P

federal register

Wednesday
May 31, 1995

Part VII

Department of Justice

Americans With Disabilities Act; Technical Assistance Grants To Promote Voluntary Compliance With the Act; Notice

DEPARTMENT OF JUSTICE

Civil Rights Division

The Americans With Disabilities Act; Technical Assistance Grants To Promote Voluntary Compliance With the Act

AGENCY: Disability Rights Section, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and of solicitation for grant applications.

PURPOSE: The Disability Rights Section (formerly the Public Access Section) of the Civil Rights Division, United States Department of Justice (DOJ), announces the availability of up to $1.2 million to fund projects to inform and educate covered entities about their responsibilities under title II and title III of the Americans With Disabilities Act of 1990 (ADA). The term ''covered entities'' refers to businesses, commercial properties, institutions, State and local governments or their agencies, and other organizations or enterprises that have responsibilities under title II or title III of the ADA. The primary objective of this program is to encourage and facilitate voluntary compliance with titles II and III of the ADA and the Department's implementing regulations through education and information sharing.

This year, the Department is seeking grant applications in the following two (2) priority areas:

(1) Statewide pilot projects to educate small businesses about the basic requirements of title III of the ADA. The projects, utilizing local business and professional organizations, will make businesses aware of the ADA and the ADA resources available locally, within the State, and from the Federal government; and promote the exchange of ideas and information on successful compliance efforts within their communities. The Department anticipates funding up to eight projects, with projects in larger States receiving up to $100,000 and projects in smaller States receiving up to $50,000.

(2) Pilot projects to conduct statewide ADA information-sharing conferences for State and local government officials. These conferences will provide information on the requirements of title II of the ADA and the ADA resources available locally, within the State, regionally, and from the Federal government; and promote the exchange of ideas and information on successful compliance efforts within the State. The Department anticipates that up to eight projects will be funded in amounts up to $40,000 each.

Detailed information regarding these specific priorities may be found in the *Program Priorities* section of this solicitation.

Grants will be awarded to selected applicants who propose cost-effective and efficient methods for carrying out projects related to this year's priorities. The Department is particularly interested in receiving proposals that: reflect an ability to begin project activities in an expedited manner; demonstrate an ability to reach and work effectively with established business, professional, trade, or municipal organizations; utilize materials already developed by Federal agencies and their grantees or contractors; draw on people within the State who have ADA expertise; represent long-term joint ventures between business, professional, trade, or municipal organizations and organizations that represent persons with disabilities; and specifically address how members of minority communities will be included within the population targeted by the applicant for receipt of technical assistance.

ELIGIBLE APPLICANTS: This grant competition is open to non-profit organizations, including trade and professional associations or their subsidiaries, organizations representing State and local governments or their employees, other organizations representing entities covered by the ADA, State and local government agencies, organizations representing persons with disabilities, and individuals. Preference will be given to the specific types of organizations described under Priority 1 and Priority 2 in the *Program Priorities* section of this solicitation.

GRANT PERIOD AND AWARD AMOUNT: The period of performance will be twelve months from the date of the grant award. A total of up to $1.2 million is available for this solicitation. It is anticipated that Priority 1 grants will be awarded in amounts up to $100,000 in larger States and up to $50,000 in smaller States. Priority 2 grants will be awarded in amounts up to $40,000. However, the estimated funding level announced in this notice does not bind the Department of Justice to make any awards or to any specific number of awards or funding levels.

APPLICATION DEADLINE: Applications must be received by the close of business (5:30 p.m. EST) on July 31, 1995 at the Disability Rights Section, Civil Rights Division, U.S. Department of Justice, 1425 New York Ave., NW, Room 4039, Washington, DC 20005 (overnight, express, or hand deliveries), P.O. Box 66738, Washington, D.C. 20035–6738 (U.S. Postal Service mail). Applications may not be sent by facsimile. Applications received after 5:30 p.m. on July 31, 1995 will not be considered for award, even if the application was postmarked before that date. Incomplete applications will not be considered for award. In order to be considered complete, one bound original and two unbound copies of the application packet described in the *Application Requirements* section of this solicitation must be submitted.

FOR FURTHER INFORMATION CONTACT: Ruth Hall Lusher, ADA Technical Assistance Program Manager, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035–6738; 1–800–514–0301 (Voice) or 1–800–514–0383 (TTY). This Notice and other related information, with the exception of standard forms, are available in alternate formats, e.g., large print, braille, audiotape, and computer disk. With the exception of standard forms, this information may also be accessed through the Disability Rights Section's electronic bulletin board at (202) 514–6193.

Background and Program Description

On January 26, 1992, the major provisions of titles II and III of the Americans with Disabilities Act (ADA) went into effect. The ADA provides legal protection to individuals with disabilities in the areas of public accommodations, commercial facilities, State and local government services, transportation, employment, and telecommunications. Title III prohibits discrimination on the basis of disability in a broad range of public accommodations, commercial facilities and certain transportation services. Title II prohibits discrimination on the basis of disability in State and local government programs, activities, and services, including transportation, and State and local government employment. The employment (title I), transportation (title II, Subpart B), and telecommunications (title IV) provisions of the ADA are regulated by other Federal agencies and are not the subject of this Notice.

Section 506 of the ADA requires the Department of Justice to provide technical assistance to entities and individuals that have responsibilities or rights under title II (subtitle A, State and local government services) and title III (public accommodations and commercial facilities) of the ADA.

Pursuant to this requirement, the Department provides a variety of ADA-related services and information, including:

—a toll-free ADA Information Line (for voice and TTY callers) through which the public may obtain recorded information and place orders for ADA materials 24 hours/day. ADA Specialists are available to answer questions about the ADA during business hours. The line, which fields up to 2,000 calls per week, also provides on-line service for Spanish-speaking callers;

—a speakers bureau through which organizations can arrange to have ADA experts from the Civil Rights Division speak on a variety of ADA topics;

—distribution of written materials, including the Department's regulations implementing titles II and III, technical assistance manuals for titles II and III, an ADA Questions and Answers booklet, and other reference materials. These materials are available in standard print, large print, braille, audiotape, and computer disk. They may also be obtained through the Disability Rights Section's electronic bulletin board and through FedWorld on the Internet; and

—an outreach program to identify, inform, and work with covered entities and persons with disabilities, including disseminating information on the ADA and the Department's ADA Information Line to 6 million businesses through the IRS quarterly mailing, distributing television and radio Public Service Announcements on the ADA featuring the Attorney General to broadcast stations, placing ADA pamphlets and cards to order free materials in 7,600 grocery stores through the ''Good Neighbor'' program, and disseminating ADA information and technical assistance materials to national advocacy and service organizations representing African Americans, Hispanics, and other interest groups.

Under section 506(d) of the Act, the Department has authority to award grants to individuals and non-profit entities for the purpose of supplementing the Department's technical assistance efforts. The Technical Assistance Grant Program is designed to develop and implement cost effective strategies to disseminate information about the responsibilities or rights of covered entities and individuals under titles II and III of the ADA and to provide practical information on effective ways to achieve compliance with the ADA. Through this program, the Department works with organizations and individuals representing the many constituencies affected by the ADA to develop educational programs and materials targeted to these audiences nationwide. The goal of the program is to foster voluntary compliance with the ADA.

Because the grant program is educational in nature, the Department does not fund projects to research or resolve issues that are outside the scope of the Department's current ADA regulations and court interpretations. The program is not intended to fund or support site-specific compliance implementation (e.g., funding to make specific facilities more accessible), or to fund or support inspections, reviews, or tests to determine whether an entity is meeting its compliance obligations.

Since the initiation of the grant program in 1991, the Department has awarded grants to over 40 non-profit organizations. Previous recipients have included a wide range of groups conducting a variety of projects, including: projects to develop and disseminate educational materials specifically tailored to address the needs of targeted audiences to help them comply with the ADA; projects to disseminate existing information to targeted audiences across the country; projects to develop and conduct ADA training programs and seminars; projects to operate telephone information lines; and projects to develop and incorporate ADA materials into professional educational curricula and programs in schools of architecture and design.

Title III projects have been directed toward educating owners and operators of hotels and motels, retail stores, grocery stores, restaurants and bars, professional offices, recreation and fitness centers, museums and other places of public display or collection, travel and tour agents, hospitals and health care providers, service providers for elderly persons, day care centers, small shops and stores, and large commercial properties.

Title II projects have worked toward educating mayors of medium and large cities and small towns, law enforcement personnel, 911/emergency response operators, officers of State courts, State social service agencies, persons involved in testing for licensure and certification purposes, and members and staff of local historic preservation commissions.

Other projects have been directed toward persons who can assist others in complying with the ADA, including professors and students in architecture, interior design, industrial design, and landscape architecture schools and programs; State and local building code officials; disability advocates; librarians; local historic preservation commissions; community and professional mediators; and building contractors and construction tradespeople. Simple, easy to understand materials about the ADA have been translated into Spanish and other languages.

The Department has undertaken other initiatives to ensure that materials developed under the grant program are available in localities across the country. An ADA Information File, which contains 33 ADA technical assistance documents, has been placed in 15,000 libraries throughout the country. Additional materials will be added to the ADA Information File in the coming months. The Department also disseminated similar informational packets to 6,000 Chambers of Commerce nationwide. As a result, a wealth of resources and educational information exists today in local communities. (A listing of materials contained in the ADA Information File will be included in the Grant Application Packet.)

The Department of Justice and other agencies have also taken steps to ensure that ADA technical assistance is available nationally, regionally, and locally. The Department, the Equal Employment Opportunity Commission (EEOC), and the Architectural and Transportation Barriers Compliance Board (Access Board) all operate toll-free ADA Information Lines to provide direct technical assistance to the public. The Department and the EEOC jointly funded a project to create the ADA Training and Implementation Network, a network of approximately 400 individuals who completed an intensive ADA training course. Members of the Network are currently located in every State in the country to serve as local resources for businesses, governments, and persons with disabilities. The U.S. Department of Education funds ten Regional Disability and Business Technical Assistance Centers (DBTACs) to provide technical assistance to covered entities and individuals with disabilities at the local, State, and regional level.

Despite these efforts and the availability of ADA information and resources, the Department has learned—through calls to its ADA Information Line, meetings with the public, Congressional inquiries, and studies conducted by the Government Accounting Office and by Lou Harris for the National Organization on Disability—that:

—many people continue to be unaware of what the ADA requires and how easy it can be to comply;
—many people believe that the ADA's requirements are more stringent than they are, or are unaware of cost-effective solutions for achieving compliance with the ADA;
—some people who are trying in good faith to comply with the ADA are making needless and costly mistakes; and
—this lack of understanding can lead people to resist making efforts to comply, or make them vulnerable to hard-sell tactics by individuals who would profiteer from their lack of knowledge.

For these reasons, the Department intends to use the grant program this year to reach out to groups at the State and local level to undertake educational projects as described in the following section.

Program Priorities

For fiscal year 1995, the Department will establish two absolute funding priorities and fund multiple pilot projects under each priority. The goal is to increase voluntary compliance with title III and title II of the ADA as easily, comprehensively, and cost-effectively as possible. The objective of both funding priorities is (1) to increase awareness of the ADA; (2) to increase knowledge of existing materials and resources available locally, within the State, regionally, and from the Federal government to assist people in understanding and complying with titles II and III of the ADA; and (3) to promote the exchange of ideas and information on successful compliance efforts.

The Department is soliciting proposals that address the following two (2) priority areas:

Priority 1: Statewide Pilot Projects To Educate Small Businesses About Basic Requirements of Title III of the ADA

The ADA provides a general framework to eliminate discrimination against people with disabilities while providing flexibility to address the unique circumstances of the estimated 6 million businesses in the United States. While this flexibility allows business owners and managers to make their own decisions about exactly how they can comply, many do not know where to turn for accurate, practical information and assistance within their own communities. Business owners and managers may attempt to comply and yet not be successful, or they may be reluctant to implement any kind of strategy for compliance.

Studies show that business owners can comply with the ADA easily and reasonably if provided with adequate information and support. These projects are intended to use existing business and professional organizations to increase awareness of the ADA and the availability of ADA resources, and to engage members of local business communities in helping each other find practical, successful ways to comply with the ADA.

Preference will be given to state-based organizations that demonstrate an established relationship with the business community across that particular State. Examples include, but are not limited to, state-based private, non-profit professional and trade organizations (e.g., a State association of small business owners, a State Chamber of Commerce, a statewide retail or hospitality association, etc.), or State government agencies that work with the business community (e.g., Departments of Resource and Economic Development, Small Business Development Centers, a State Bureau of Travel or Tourism, etc.).

Proposed projects must use established local business and professional organizations and their regular meetings, local and regional ADA resources and individuals with ADA expertise, and ADA publications and materials available free from the Department of Justice to reach and educate small businesses, non-profit groups, and others who must comply with title III of the ADA.

Project activities must be conducted in all regions of the State, reach a diverse representation of title III entities statewide, represent a joint venture with organizations representing people with disabilities, and have the potential for replication in other States.

Statewide pilot projects to educate small businesses about basic requirements of title III of the ADA shall include the following major components:

—Conduct ADA educational programs in all regions of the State, using established local business and professional organizations and their regularly scheduled meetings. A minimum of 50 programs must be conducted in larger States and a minimum of 25 programs must be conducted in smaller States. Letters of cooperation or support from groups such as Merchant Associations, Jaycees, Kiwanis, Lions, Rotary Clubs, or similar organizations must be included with the grant application;
—Programs must provide: basic information on the requirements of title III of the ADA using approved technical assistance materials available from the Department of Justice (including the ''Open for Business'' videotape, the Checklist for Readily Achievable Barrier Removal, the ADA Questions and Answers booklet, the IRS Tax Credit form, etc.); a list of technical assistance resources available locally, within the State, and from the Federal government that participants may use to obtain technical assistance at a later time; and time for local businesses to discuss issues, share ideas, and identify practical, cost-effective solutions that they have used successfully to comply with the ADA. An outline of a model program (one to two hours in length) must be included with the grant application;
—Use local, State, and regional ADA resources and individuals knowledgeable about the ADA for assistance to conduct the educational programs. It is anticipated that speakers and presenters will voluntarily provide their services. Grant funds may be used to reimburse individual travel expenses, but may not be used to provide honoraria for speakers. Letters of cooperation or support from groups such as the regional Disability and Business Technical Assistance Center (DBTAC) or local DBTAC affiliates, Independent Living Centers, other organizations representing people with disabilities, or members of the ADA Training and Implementation Network must be included with the grant application;
—Develop a marketing pamphlet or flyer that can be easily tailored, reproduced, and used by local business groups hosting the programs;
—Ensure that businesses owned or operated by people who are members of racial and ethnic minority groups will be included within the audiences reached;
—Provide a brief final report on the project, including an identification of the strengths and weaknesses of the project, the number and types of participants involved, examples of known positive changes that may have occurred as a result of the project, and suggestions for improvement that the Department will be able to use as guidance for other organizations seeking to conduct similar projects in the future.

Priority 2: Statewide ADA Information-Sharing Conferences for Government Officials

In the United States today, an estimated 86,000 units of State, county,

and municipal governments are working to understand and meet their obligations under title II of the ADA. The ADA provides the general framework to eliminate discrimination against people with disabilities, but also the flexibility to address the unique circumstances encountered by State and local government programs and activities. While this allows State and local government officials with ADA compliance responsibilities to decide exactly how to comply, many may not know where to turn for accurate, practical information and assistance within their own communities and may be reluctant to take needed action.

While many State and local governments have been successful in making their programs and activities accessible to people with disabilities, misinformation about the requirements of the ADA continues to exist, making voluntary compliance more confusing and burdensome for some than it need be. For example, many believe the ADA requires that all buildings must be accessible, when, in fact, the ADA actually requires that a public entity make its programs accessible to people with disabilities through relocation of programs to an accessible location, structural modifications, or other alternatives. For those State and local government officials having the authority and the responsibility for developing and implementing ADA compliance strategies, access to information and other assistance is paramount if compliance efforts are to be successful. Yet, the significant resources that exist at the State and local level are often overlooked and underutilized, including other State and local governments that have already successfully resolved compliance issues.

One of the Department's primary roles and responsibilities is to assist local communities, both small and large, to understand the ADA's requirements through education and technical assistance. To accomplish this, the Department will fund pilot projects to conduct statewide ADA information-sharing conferences for State and local government officials. These conferences will provide information on the requirements of the ADA, the ADA resources available locally, regionally and from the Federal government, and promote the exchange of ideas and information on successful compliance efforts within the State.

Proposed projects should target participants with decision-making authority over programs that serve the public, particularly those with responsibility for ADA compliance activities. Preference will be given to State agencies or state-based organizations that demonstrate the existence of an established relationship with the target audience across that particular State. Examples include, but are not limited to, a State office on accessibility and ADA compliance, a State building code council, or state-based organizations that represent or work with local and State government officials such as a State municipal association, association of counties, association of cities or towns, council of mayors or city managers, etc.

Proposed projects must bring State and local government officials from across the State together with individuals knowledgeable about the ADA from local, regional, and Federal sources, use approved ADA publications and materials available free from the Department or other sources, and provide a mechanism for the continuing exchange of information and ideas among the conference participants.

The statewide conference must reach a diverse representation of title II entities statewide and have the potential for replication in other States.

A pilot project to conduct statewide ADA information-sharing conferences for local and State government officials shall include the following major components:

—Working with State and local government agencies, officials, and employees, plan and promote the ADA conference to ensure representation from local and State agencies and programs from around the State. An outline plan for promoting the conference and its goals, including use of the media, must be included with the grant application;

—Identify and develop a list of local, State, regional, and Federal ADA resources that serve the State (e.g., regional DBTAC and local DBTAC affiliates, Centers for Independent Living, other organizations representing people with disabilities, members of the ADA Training and Implementation Network, local and State officials with ADA expertise, Federal ADA information lines, electronic bulletin boards, the ADA Information File in local libraries, etc.);

—Plan and conduct one statewide conference that will provide: information on the requirements of title II of the ADA specifically tailored to the needs of the targeted audience; information about technical assistance resources available locally, within the State, and from the Federal government; a variety of workshops or break-out sessions tailored to address specific issues and to enable participants to discuss issues, share ideas, and learn of practical, cost-effective solutions that have been used successfully to comply with the ADA; and a mechanism for the continuing exchange of information and ideas among the conference participants (such as distributing lists of ADA resources and the names and addresses of conference participants to all conference attendees). An outline of the proposed agenda for the conference must be included with the grant application;

—In carrying out the conference, the grant recipient must use existing ADA publications and materials reviewed by the Federal government that are available from the Department and other agencies, and the local, State, regional, and Federal ADA resources that serve the State, as described above. Letters of cooperation or support from groups or individuals who will be participating as speakers must be included with the grant application;

—Provide a final report on the project, including an identification of the strengths and weaknesses of the project, the number and types of participants involved, examples of known positive changes that may have occurred as a result of the project, and suggestions for improvement that the Department will be able to use as guidance for other organizations seeking to conduct similar statewide conferences in the future.

Selection Criteria

Applicants will be evaluated in each of the following four selection criteria areas for a total of 100 points:

Project Strategy and Plan of Action (50 points)

Applicants must demonstrate a thorough understanding of the grant proposal priority, including the background, intended audience, and intended approach. Applicants must also demonstrate an ability to reach as diverse a segment of the target audience as possible in a cost-efficient manner. Project goals and expected outcomes should be clearly articulated. Clarity, quality, and appropriateness of the plans, methodologies, and procedures to achieve the goals listed in the application will be carefully considered. Proposals should reflect the involvement of State and local business and government organizations with

local, State, and regional organizations that provide ADA technical assistance and organizations that represent people with disabilities. Proposals must include letters of commitment as previously described under each program priority.

The plan of action must be sound and well-reasoned, with evidence of the ability to implement the plan immediately and complete the project within the period of performance. Project strategy must include a plan for documenting known positive changes that may occur as a result of the project and for evaluating the strengths and weaknesses of the project, as previously described under each program priority.

Staff Capability (25 points)

Applicants must provide evidence of qualified personnel to undertake the project. The application must contain necessary position description(s), resume(s), and assurances of availability of key staff (salaried or contract staff) with appropriate competencies and experience. Duties outlined for grant-funded position(s) must be clearly appropriate to the scope of the work being carried out under the project.

Organizational Capability and Management Plan (20 points)

Applicants must demonstrate the ability to reach and work effectively with the targeted audience and offer evidence of proven organizational ability to provide high quality results utilizing appropriate key personnel. Applications must include a management plan that provides evidence of project control by management, efficient and timely use of staff and other resources, and effective quality control mechanisms.

Resources/Facilities/Equipment (5 points)

Applicants must demonstrate the availability and appropriateness of resources (other than personnel), physical facilities, and equipment proposed to be used to carry out the project.

General Requirements for Grant Recipients

The following general grant program requirements should be considered by each applicant in developing both its project timeline and budget. Successful applicants must adhere to all conditions as specified; any deviation from the requirements in this section must be negotiated with DOJ.

Coordination With Other Agencies and Organizations

Grantees are expected to coordinate their project activities with the Department of Justice, and, where appropriate, with other Federally sponsored ADA technical assistance activities, such as the Department of Education's Disability and Business Technical Assistance Centers (DBTACs). Grantees will utilize existing technical assistance materials developed by the Department, its grantees, other Federal agencies and their grantees.

Grantee Orientation and Post-Award Monitoring

The Department intends to provide grant recipients with the maximum amount of post-award guidance and technical assistance possible within budget and staff constraints. Applicants are advised that DOJ staff may make site visits to provide grant recipients with guidance and technical assistance and to monitor the progress of the grant. The Office of Justice Programs (OJP), a component of the Department of Justice, will provide financial management and other services in support of the Disability Rights Section in the administration of this program. Applicants are advised that copies of both the quarterly progress reports and quarterly financial reports sent to OJP must also be sent to the Disability Rights Section.

DOJ Review of Grantee Materials

All materials used or developed by grant recipients must be approved by DOJ in advance of use. This includes media releases, scripts, program outlines/agendas, and handouts. However, it is not anticipated that grant recipients will develop new technical assistance materials under these priorities.

Availability of Existing Materials

Publications and resource lists that are currently available to the public from the Department of Justice (DOJ) will be provided, in bulk, to grant recipients free of charge. Grantees are not responsible for the duplication of DOJ materials. If an applicant wishes to use materials produced by previous DOJ grant recipients or recipients of grants from other Federal agencies, including the National Institute on Disability and Rehabilitation Research, it should coordinate such requests with DOJ.

Copyrights

The grantor agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government purposes: (1) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (2) any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with grant support.

Program Income

Grantee recipients may charge for grant-related activities and products (e.g., new materials developed and disseminated, conference registration fees), as long as all income derived from such activities and products is added to funds committed to the grant and its activities. Specifically, this program income (gross income earned by the grantee, during the funding period, as a direct result of the grant award or its activities) must be used ''to further the eligible project or program objectives'' or ''to finance the non-Federal share of the project or program'' (e.g., obtaining equipment or other assets required for the project). Program income may not be used to support or further a grantee's general organization, its programs or its services.

Costs associated with the provision of refreshments may not be paid for with grant funds. It is anticipated that speakers and presenters will voluntarily provide their services. Grant funds may be used to reimburse individual travel and accommodation expenses, but may not be used to provide honoraria for speakers. Fees charged by grantees (if any) must be nominal and there shall be no charge for materials provided to audience participants.

Alternate Formats (Print and Audiovisual)

All materials produced in standard print must also be produced in large print, in Braille, and on audiotape in proportion to anticipated demand by persons with vision impairments in the targeted population(s). Audiotapes of lengthy materials must be voice- or tone-indexed.

Effective Communication and Accessibility Requirements

Applicants who plan to list a voice telephone number on correspondence or promotional materials concerning the grant activities, or on materials produced under the grant, must also list a TTY telephone number. Applicants who plan to use an automated telephone information system to respond to voice calls concerning grant activities must provide comparable service for TTY users. The cost of establishing an automated TTY information system or

purchasing a TTY may not be included in the proposed project budget.

All grant activities must be held in accessible facilities. All programs must be accessible to attendees with communication disabilities.

Materials To Be Provided to DOJ

If grant project activities are videotaped, one copy must be submitted to DOJ. If videotapes are intended for commercial use, all must be captioned.

A copy of the final text of each document or videotape script produced must be provided to DOJ on computer disk in ASCII or Wordperfect.

Application Requirements

Under Section 506(d) of the Americans with Disabilities Act, the Department is authorized to award grants to individuals and non-profit organizations to supplement its ADA technical assistance efforts. All applicants must submit, in the order given, one bound original and two unbound copies of the following information:

1. A signed SF 424 and SF 424A (Rev. 4/88) application form. The grant priority number under which the applicant is submitting the proposal must be clearly identified in box number 11 on form SF 424.

2. A one-page Abstract that summarizes the goals of the project, the nature and size of the population(s) to be reached through the project, and the project strategy. Applicants should state explicitly the number of people expected to be served in the course of the project's activities.

3. A Project Strategy and Plan of Action (maximum length 15 pages) that:

—addresses each major component identified in the program priority for which applicant is applying;
—describes major activities and events;
—provides a description of the applicant's plan for working with other local, State, regional, and Federal ADA resources; and
—provides a plan for evaluating the effectiveness of the project, as described under the program priorities.

4. A Management Plan that includes a timeline for completion of all project objectives, activities, events, and products.

5. A Budget Narrative required by the SF 424 (Rev. 4/88), which includes the basis for all costs presented in the budget.

6. A brief statement identifying the facilities, equipment, and other resources available for carrying out the project.

7. Job description(s) for key position(s) that are proposed to be funded under the grant.

8. Resume(s) or qualification(s) of the key individual(s) who will fill the grant position(s), including consultants, if any (maximum length 3 pages each).

9. Letters of commitment from organizations that will be involved in the project. (Letters of reference are not required and, if submitted, will not be considered.)

10. A certification regarding lobbying, debarment, suspension, other responsibility matters, and drug-free workplace requirements, OJP Form 4061/6.

11. A disclosure of lobbying activities, SF LLL.

Please Note: Non-profit applicants who have not previously received Federal financial assistance from the Department of Justice may also be required to submit a disclosure of financial capability statement or other documentation prior to the grant award.

Dated: May 18, 1995.

Deval L. Patrick,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 95–13202 Filed 5–30–95; 8:45 am]

BILLING CODE 4410–01–P

federal register

Wednesday
May 31, 1995

Part VIII

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter I, et al.

Federal Acquisition Regulation (FAR): Summary Presentation, et al.; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 90–27; Introduction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules with request for comment.

SUMMARY: This document summarizes the FAR rules which follow it in the order listed below. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing Federal Acquisition Circular (FAC) 90–27 to amend the Federal Acquisition Regulation (FAR).

DATES: For effective dates and comment dates, see separate documents which follow. Please cite FAC 90–27 and the appropriate FAR case number(s) in all correspondence related to the following documents.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table above) in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4037, GS building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–27 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–27 amends the Federal Acquisition Regulation (FAR) as specified below:

Item and subject	FAR Case	Analyst
I: Double-Sided Copying (Interim)	92–50	DeStefano.
II: Environmentally Preferable Products (Interim)	92–54	DeStefano.
III: Ozone Executive Order (Interim)	93–307	DeStefano.
IV: Addition of Three European Community Countries	95–601	McAndrew.
V: Trade Sanctions-Germany	94–5	O'Such.
VI: Interdivisional Transfers (Interim)	94–9	Olson.

Item I—Double-Sided Copying (FAR Case 92–50)

This interim rule amends FAR Part 4 and a new contract clause, Printing/Copying Double-Sided on Recycled Paper, is added at 52.204–4 to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting written documents related to an acquisition.

Item II—Environmentally Preferable Products (FAR Case 92–54)

This interim rule amends FAR Parts 7, 10, 11, 15, 23, 36, 42, and 52 to clearly reflect the Government's preference for the acquisition of environmentally-sound and energy-efficient products and services and to establish an affirmative procurement program favoring items containing the maximum practicable content of recovered materials. Changes include addition of: (1) Definitions of ''new'' and ''other than new'' at 10.001, in the clauses at 52.210–5 and 52.210–7, and in the provision at 52.210–6; (2) a new section at 23.4040(b) requiring that acquisitions of certain items meet the Environmental Protection Agency's minimum standards for recovered material content, unless approval is granted by an official designated by the agency head; (3) a new provision and clause at 52.223–8 and 52.223–9 requiring offerors and contractors to provide information regarding the percentage of recovered materials in certain items proposed for use and actually used in contract performance; and (4) a new clause at 52.223–10 requiring contractors operating Government-owned or leased facilities to establish cost-effective waste reduction programs.

Item III—Ozone Executive Order (FAR Case 93–307)

This interim rule implements Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances, and Environmental Protection Agency Clean Air Act Title VI regulations, Protection of Stratospheric Ozone (40 CFR Part 82). A new subpart is added at FAR 23.8 to provide policy for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances. Two new clauses are added: 52.223–11, Ozone—Depleting Substances, and 52.223–12, Refrigeration Equipment and Air Conditioners. The clause at 52.223–11 requires contractors to label products which contain or are manufactured with class I or class II ozone-depleting substances. The clause at 52.223–12 requires contractors to comply with Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the contract. 42 U.S.C. 7671g addresses a national recycling and emission reduction program, and 42 U.S.C. 7671h addresses servicing of motor vehicle air conditioners.

Item IV—Addition of Three European Community Countries (FAR Case 95–601)

This final rule adds three countries, Austria, Finland and Sweden, to the definition of ''EC Country'' in section 25.401 and in the clauses at 52.225–15 and 52.225–17, and adds the definition of ''sanctioned member state of the EC'' in section 25.1001 and in the clauses at 52.225–18 and 52.225–19 of the FAR. These countries joined the EC on January 1, 1995.

Item V—Trade Sanctions—Germany

This final rule amends the definition of ''sanctioned member state of the European Community'' to remove the ''Federal Republic of Germany'' from FAR 25.1001 and the clauses at 52.225–18 and 52.225–19. These revisions are based on the Office of the United States Trade Representative's determination, which was published in the **Federal Register** at 59 FR 11360, March 10, 1994.

Item VI—Interdivisional Transfers (FAR Case 94–9)

This interim rule amends the cost principle criteria for the cost of interdivisional transfers to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

Number 90–27

Federal Acquisition Circular (FAC) 90–27 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR)

and other directive material contained in FAC 90–27 are effective May 31, 1995.

Dated: May 2, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy, General Services Administration.

Eleanor R. Spector,

Director, Defense Procurement Department of Defense.

Dated: April 24, 1995.

Tom Luedtke,

Deputy Associate Administrator for Procurement, NASA.

[FR Doc. 95–13254 Filed 5–30–95; 8:45 am]

BILLING CODE 6820–EPD–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 52

[FAC 90–27, FAC Case 92–50, Item I]

RIN 9000–AG41

Federal Acquisition Regulation; Double-Sided Copying

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting documents related to an acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Effective Date: May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4035, Attn: Ms Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–27, FAR case 92–50 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 92–50.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention, dated October 20, 1993 (58 FR 54911), encourages the use of double-sided copying on recycled paper for documents printed within the Government and under Government contracts.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the requirements under the rule are best efforts requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–27, FAR Case 92–50), in correspondence.

C. Paperwork Reduction Act

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

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule implements Executive Order 12873, which required FAR revisions by April 18, 1994. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 4 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 4 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Section 4.000 is revised to read as follows:

4.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files.

3. Subpart 4.3 is added to read as follows:

Subpart 4.3—Paper Documents

Sec.
4.300 Scope of subpart.
4.301 Authority.
4.302 Definition.
4.303 Policy.
4.304 Contract clause.

Subpart 4.3—Paper Documents

4.300 Scope of subpart.

This subpart provides policies and procedures on contractor-submitted paper documents.

4.301 Authority.

The authority for this subpart is established in Executive Order 12873, Sections 402(d) and 504, October 20, 1993.

4.302 Definition.

Printing/copying double-sided, as used in this subpart, means printing or reproducing a document so that information is on both sides of a sheet of paper.

4.303 Policy.

It is the policy of the Government that a contractor submitting paper documents to the Government relating to an acquisition should, if possible, submit those documents printed/copied double-sided on recycled paper. If the contractor can only print/copy double-sided or use recycled paper, the contractor should accomplish whichever one the contractor has the ability to achieve.

4.304 Contract clause.

The contracting officer shall insert the clause at 52.204–4, Printing/Copying Double-Sided on Recycled Paper, in solicitations and contracts.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.204 is added to read as follows:

52.204–4 Printing/Copying Double-Sided on Recycled Paper.

As prescribed in 4.304, insert the following clause:

PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (MAY 1995)

(a) In accordance with Executive Order 12873, dated October 20, 1993, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20% postconsumer material.

(b) The 20% standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, and carbonless paper. A higher standard of 50% recovered material, with 20% postconsumer material, applies to other uncoated printing and writing papers such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative standard for either of the standards specified in this clause is 50% recovered material content of certain industrial by-products.

(End of clause)

[FR Doc. 95–13255 Filed 5–30–95; 8:45am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 7, 10, 11, 15, 23, 36, 42, and 52

[FAC 90–27, FAR Case 92–54, Item II]

RIN 9000–AG40

Federal Acquisition Regulation; Environmentally Preferable Products

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to incorporate policies for the acquisition of environmentally preferable and energy-efficient products and services. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Effective Date: May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995. To be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–27, FAR case 92–54 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 92–54.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*); Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention (58 FR 54911, October 22, 1993); and Office of Federal Procurement Policy (OFPP) Policy Letter 92–4, Procurement of Environmentally-Sound and Energy-Efficient Products and Services (57 FR 53362, November 9, 1992).

The rule amends FAR Parts 7, 10, 11, 15, 23, 36, 42, and 52 to clearly reflect the Government's preference for the acquisition of environmentally-sound and energy-efficient products and services and to establish an affirmative procurement program favoring items containing the maximum practicable content of recovered materials. Definitions of ''new'' and ''other than new'' are added at 10.001, in the clauses at 52.210–5 and 52.210–7, and in the provision at 52.210–6. A new provision and clause are added at 52.223–8 and 52.223–9 requiring offerors and contractors to provide information regarding the percentage of recovered materials in certain items proposed for use and actually used in contract performance. A new clause is added at 52.223–10 requiring contractors operating Government-owned or leased facilities to establish cost-effective waste reduction programs.

B. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule establishes a preference for the acquisition of environmentally-sound and energy-efficient products and services and requires that contracts for certain items specify minimum percentages of recovered material content. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *se seq.* (FAC 90–27, FAR Case 92–54), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the interim rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning environmentally sound products was submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through a **Federal Register** notice published at 59 FR 60357, November 23, 1994.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because Executive Order 12873 required implementation and incorporation of its policies into the FAR by April 18, 1994. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 7, 10, 11, 15, 23, 36, 42, and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 7, 10, 11, 15, 23, 36, 42, and 52 are amended as set forth below:

1. The authority citation for 48 CFR part 7, 10, 11, 15, 23, 36, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 7—ACQUISITION PLANNING

2. Section 7.102 is revised to read as follows:

7.102 Policy.

Agencies shall perform acquisition planning and conduct market surveys for all acquisitions. This planning shall integrate the efforts of all personnel responsible for significant aspects of the acquisition. The purpose of this planning is to ensure that the Government meets its needs in the most effective, economical, and timely manner.

3. Section 7.103 is amended by redesignating paragraphs (a) through (l) as (b) through (m) and adding new paragraphs (a) and (n) to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(a) Promoting and providing for full and open competition (see part 6) or, when full and open competition is not required in accordance with part 6, for obtaining competition to the maximum extent practicable, with due regard to the nature of the supplies and services to be acquired (41 U.S.C. 253a(a)(1)).

* * * * *

(n) Ensuring that agency planners specify needs and develop plans, drawings, work statements, specifications, or other product descriptions promoting the use of environmentally preferable and energy-efficient products and services (e.g., promoting energy conservation and the use of recovered material content and the elimination or reduction of ozone-depleting substances usage), and that these are considered in the evaluation and award of contracts, as appropriate (see part 23).

4. Section 7.105 is amended by revising paragraph (b)(15); and in paragraph (b)(17) by removing the words ''energy conservation measures''. The revised text reads as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(15) *Environmental and energy conservation objectives.* Discuss all applicable environmental and energy conservation objectives associated with the acquisition (see part 23), the applicability of an environmental assessment or environmental impact statement (see 40 CFR part 1502), the proposed resolution of environmental issues, and any environmentally-related requirements to be included in solicitations and contracts.

* * * * *

PART 10—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

5. Section 10.001 is amended by adding, in alphabetical order, the following definitions:

10.001 Definitions.

* * * * *

Material, as used in this part, includes, but is not limited to, raw material, parts, items, components, and end products.

New, as used in this part, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

Other than new, as used in this part, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

* * * * *

Reconditioned, as used in this part, means restored to an earlier normal operating condition by readjustments and replacement of parts.

Remanufactured, as used in this part, means factory rebuilt to new equipment performance specification and unused subsequent to rebuilding.

* * * * *

6. Section 10.002 is amended by redesignating paragraph (e) as (f) and adding a new (e) to read as follows:

10.002 Policy.

* * * * *

(e) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), as amended, and Executive Order 12873, dated October 20, 1993, establish requirements for the procurement of products containing recovered materials, and environmentally preferable and energy-efficient products and services. Requiring activities shall prepare plans, drawings, specifications, standards (including voluntary standards), and purchase descriptions that consider the requirements set forth in part 23.

* * * * *

7. Section 10.004 is amended in paragraph (a)(1) by adding a sentence at the end of the paragraph to read as follows:

10.004 Selecting specifications or descriptions for use.

(a)(1) * * * Agencies should prepared product descriptions to achieve maximum practicable use of recovered material and other materials that are environmentally preferable (see subparts 23.4 and 23.7).

* * * * *

8. Section 10.010 is revised to read as follows:

10.010 Acquiring other than new material, former Government surplus property, and residual inventory.

(a) Agencies shall allow offers of other than new material, former Government surplus property, or residual inventory unless it is determined that such materials are unacceptable. When only new material is acceptable, the solicitation shall clearly identify the material that must be new. Offerors providing other than new material shall be required to comply with the clause at 52.210–5, New Material, the provisions at 52.210–6, Listing of Other Than New Material, Residual Inventory, and Former Government Surplus Property, and the clause at 52.210–7, Other Than New Material, Residual Inventory, and Former Government Surplus Property, as appropriate.

(b) Agencies shall specify products, including packaging, that contain the highest practicable percentage of recovered and environmentally preferable materials, and where applicable, postconsumer material, consistent with performance requirements, availability, price reasonableness, and cost-effectiveness.

(c) Contracting officers shall consider the following when determining whether other than new materials, former Government surplus property, or residual inventory are acceptable:

(1) Safety of persons or property.

(2) Specification and performance requirements.

(3) Price reasonableness.

(4) Total cost to the Government (including maintenance, inspection, testing, and useful life).

(d) When a contract calls for material to be furnished at cost, the allowable charge for former Government surplus property shall not exceed the cost at which the contractor acquired the property.

9. Section 10.011 is amended by revising paragraphs (f)(1) and (g)(1) to read as follows:

10.011 Solicitation provisions and contract clauses.

* * * * *

(f)(1) The contracting officer shall insert the provision at 52.210–6, Listing of Other Than New Material, Residual Inventory, and Former Government Surplus Property, in solicitations containing the clause at 52.210–5.

* * * * *

(g)(1) The contracting officer shall insert the clause at 52.210–7, Other Than New Material, Residual Inventory, and Former Government Surplus Property, in contracts containing the clause at 52.210–5.

* * * * *

PART 11—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

10. Section 11.004 is amended by revising paragraph (b); and by redesignating paragraphs (c)(2) through (c)(6) as (c)(4) through (c)(8) and adding new paragraphs (c)(2) and (c)(3) to read as follows:

11.004 Market research and analysis.

* * * * *

(b) *Requirements.* Agencies shall conduct market research and analysis as needed to—

(1) Ensure full and open competition;

(2) Ensure maximum practicable use of recovered materials (see subpart 23.4);

(3) Promote energy conservation and efficiency; and

(4) Meet the Government's needs in a cost-effective manner.

(c) * * *

(2) The availability of the same or similar products that contain recovered materials.

(3) The availability of the same or similar products that are energy-efficient.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

11. Section 15.601 is amended by adding, in alphabetical order, the definition ''source reduction'' to read as follows:

15.601 Definition.

* * * * *

Source reduction, as used in this subpart, means any practice which (a) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, treatment, or disposal; and (b) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

* * * * *

12. Section 15.605 is amended by adding paragraph (b)(1)(iv) to read as follows:

15.605 Evaluation factors.

* * * * *

(b)(1) * * *

(iv) Environmental objectives, such as promoting waste reduction, source reduction, energy efficiency, and maximum practicable recovered material content (see part 23), shall also be considered in every source selection, when appropriate.

* * * * *

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

13. Section 23.201 is revised to read as follows:

23.201 Authorities.

(a) Energy Policy and Conservation Act (42 U.S.C. 6361(a)(1)) and Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901, *et seq.*).

(b) National Energy Conservation Policy Act (42 U.S.C. 8253 and 8262g).

(c) Executive Order 11912, April 13, 1976.

(d) Executive Order 12759, Sections 3, 9, and 10, April 17, 1991.

(e) Executive Order 12902, March 8, 1994.

14. Section 23.203 is revised to read as follows:

23.203 Policy.

Agencies shall consider energy-efficiency in the procurement of products and services. Energy conservation and efficiency data shall be considered along with estimated cost and other relevant factors in the preparation of plans, drawings, specifications, and other product descriptions.

15. Subpart 23.4 is revised to read as follows:

Subpart 23.4—Use of Recovered Materials

Sec.

23.400 Scope of subpart.
23.401 Authorities.
23.402 Definitions.
23.403 Policy.
23.404 Procedures.
23.405 Solicitation provisions and contract clause.

Subpart 23.4—Use of Recovered Materials

23.400 Scope of subpart.

This subpart prescribes policies and procedures for acquisition of:

(a) Environmental Protection Agency (EPA) designated items for which agencies must develop and implement affirmative procurement programs pursuant to 42 U.S.C. 6901, *et seq.*, and E. O. 12873;

(b) Agency designated items specifying recovered material; and

(c) Other products when preference is given to offers of products containing recovered material.

23.401 Authorities.

(a) The statutory basis for this program is the Resource Conservation and Recovery Act of 1976 (RCRA), as amended (Solid Waste Disposal Act, 42 U.S.C. 6901, *et seq.*). With limited exceptions, the statute requires agencies responsible for drafting or reviewing specifications to ensure that they:

(1) Do not exclude the use of recovered materials,

(2) Do not require the items to be manufactured from virgin materials, and

(3) Do require, for EPA designated items, the use of recovered materials to the maximum extent practicable without jeopardizing the intended end use of the item. The statute further requires agencies to develop and implement affirmative procurement programs for EPA designated items within one year after EPA's designation.

(b) The statute also requires the EPA to prepare guidelines on the availability, sources, and potential uses of recovered materials and associated items, including solid waste management services.

(c) Executive Order 12873, dated October 20, 1993, requires that the Federal Government assume leadership in making more efficient use of natural resources through the acquisition of items made with recovered materials and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such items. Executive Order 12873 also provides direction for agency development and implementation of affirmative procurement programs.

23.402 Definitions.

EPA designated item means an item that is or can be made with recovered materials and is listed by EPA in a procurement guideline (40 CFR, chapter 1, subchapter I).

Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of ''recovered material.''

Recovered material means waste materials and by-products which have

been recovered or diverted from solid waste including postconsumer material, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

23.403 Policy.

The Government's policy is to aquire, in a cost-effective manner, items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition without adversely affecting performance requirements or exposing suppliers' employees to undue hazards from the recovered materials.

23.404 Procedures.

(a) *Applicability.* These procedures apply to all agency acquisitions where the agency requires minimum percentages of recovered materials. For EPA designated items, these procedures apply

(1) When the price of the item exceeds $10,000 or

(2) When the aggregate amount paid for items, or for functionally equivalent items, in the preceding fiscal year was $10,000 or more.

(b) *EPA designated items.* (1) EPA has designated items that are or can be made with recovered materials in 40 CFR chapter 1, subchapter I.

(2) For EPA designated items, agencies shall establish an affirmative procurement program. The responsibilities for preparation, implementation and monitoring of affirmative procurement programs shall be shared between technical or requirements personnel and procurement personnel. As a minimum, such programs shall include—

(i) A recovered materials preference program;

(ii) An agency promotion program;

(iii) A program for requiring reasonable estimates, certification, and verification of recovered material used in the performance of contracts; and

(iv) Annual review and monitoring of the effectiveness of the program.

(3) Acquisition of EPA designated items which do not meet the EPA or agency minimum recovered material standards shall be approved by an official designated by the agency head based on a written determination that the items—

(i) Are not available within a reasonable period of time;

(ii) Are available only at unreasonable prices;

(iii) Are not available from a sufficient number of sources to maintain a satisfactory level of competition; or

(iv) Based on technical verification, fail to meet performance standards in the specifications. Technical or requirements personnel shall provide a written determination when this determination is used partially or totally as a basis for an exemption. This determination shall be made on the basis of National Institute of Standards and Technology guidelines in any case in which the material is covered by these guidelines.

(4) Annual contractor certifications required by the clause at 52.223–9 shall be consolidated and reported in accordance with agency procedures.

(c) *Agency designated items.* Agency designated items specifying recovered material content shall be acquired pursuant to agency procedures.

23.405 Solicitation provisions and contract clause.

(a) The contracting officer shall insert the provision at 52.223–4, Recovered Material Certification, in solicitations requiring the use of recovered materials.

(b)(1) The contracting officer shall insert the provision at 52.223–8, Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract, in solicitations containing a requirement for an EPA designated item.

(2) The contracting officer shall use Alternate I of the provision at 52.223–8 in solicitations that do not require EPA designated items, but do require agency designated items requiring recovered materials.

(3) The contracting officer shall use Alternate II of the provision at 52.223–8 in solicitations containing a requirement for both EPA designated and agency designated items.

(c) When the basic provision or Alternate II at 52.223–8 is used, the contracting officer shall also insert the clause at 52.223–9, Certification of Percentage of Recovered Material Content for EPA Designated Items Used in Performance of the Contract.

16. Subpart 23.7 is added to read as follows:

Subpart 23.7—Contracting for Environmentally Preferable and Energy-Efficient Products and Services

Sec.

23.701 Applicability.
23.702 Authorities.
23.703 Definitions.
23.704 Policy.
23.705 Application to Government-owned or leased facilities.
23.706 Contract clause.

23.701 Applicability.

This subpart prescribes policies for obtaining environmentally preferable and energy-efficient products and services.

23.702 Authorities.

(a) Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.).*

(b) National Energy Conservation Policy Act (42 U.S.C. 8262g).

(c) Pollution Prevention Act of 1990 (42 U.S.C. 13101, *et seq.*).

(d) Executive Order 12873, October 20, 1993.

(e) Executive Order 12856, August 3, 1993.

(f) Executive Order 12902, March 8, 1994.

23.703 Definitions.

Environmentally preferable means products or services that have a lesser negative effect on human health or the environment when compared with competing products or services that serve the same purpose. This comparison should use principles recommended in guidance issued by EPA (see Executive Order 12873, Section 503), and may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form or raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention also known as ''source reduction'' means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they become municipal solid waste. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

23.704 Policy.

(a) Agencies shall implement cost-effective contracting preference programs favoring the acquisition of environmentally preferable and energy-efficient products and services.

(b) The following environmental objectives shall be addressed through the acquisition process:

(1) Obtaining products and services considered to be environmentally preferable (based on EPA-issued guidance) and energy-efficient.

(2) Eliminating or reducing the generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal).

(3) Promoting the use of nonhazardous and recovered materials.

(4) Realizing life-cycle cost savings.

(5) Promoting cost effective waste reduction when creating plans, drawings, specifications, standards, and other product descriptions authorizing material substitutions, extensions of shelf-life, and process improvements; and

(6) Otherwise employing acquisition strategies that affirmatively implement the objectives in paragraph (b) of this section.

23.705 Application to Government-owned or leased facilities.

Pursuant to Executive Order 12873, Section 701, every new contract for contractor operation of a Government-owned or leased facility shall require contractor programs to promote and implement cost-effective waste reduction in performing the contract. In addition, where economically feasible, existing contracts for contractor operation of Government-owned or leased facilities should be modified to provide for cost-effective waste reduction in contract performance.

23.706 Contract clause.

The contracting officer shall insert the clause at 52.223–10, Waste Reduction Program, in all solicitations and contracts for contractor operation of Government-owned or leased facilities.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

17. and 18. Section 36.601–3 is amended by redesignating paragraphs (a) through (c) as (b) through (d) and adding a new paragraph (a) to read as follows:

36.601–3 Applicable contracting procedures.

(a) Prior to announcing a requirement for architect-engineering services for the design of a facility, the contracting officer shall ask the technical official responsible for the facility being designed to specifically identify any areas where recovered materials cannot be used in the facility construction. In those areas where recovered materials may be used, the architect-engineer shall specify use of the maximum practicable amount of recovered materials in the construction design specifications consistent with 10.010(b).

* * * * *

19. Section 36.602–1 is amended by redesignating paragraph (a)(6) as (a)(7) and adding a new (a)(6) to read as follows:

36.602–1 Selection criteria.

(a) * * *

(6) Demonstrated success in prescribing the use of recovered materials and achieving waste reduction and energy efficiency in facility design.

* * * * *

20. Section 36.602–3 is amended by revising paragraph (c) to read as follows:

36.602–3 Evaluation board functions.

* * * * *

(c) Hold discussions with at least three of the most highly qualified firms regarding concepts, the relative utility of alternative methods, and feasible ways to prescribe the use of recovered materials and achieve waste reduction and energy-efficiency in facility design (see part 23).

* * * * *

PART 42—CONTRACT ADMINISTRATION

21. Section 42.302 is amended by adding paragraph (a)(68) to read as follows:

42.302 Contract administration functions.

(a) * * *

(68) Monitor the contractor's compliance with the requirements of environmental laws including the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*) and other environmental requirements as specified in the contract (see part 23). Responsibilities of the contracting officer shall include—

(i) Verification of contractor compliance with specifications requiring the use of environmentally preferable and energy-efficient materials and the use of materials or delivery of end items with the specified recovered material content. This shall occur as part of the quality assurance procedures set forth in part 46.

(ii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

22. Sections 52.210–5, 52.210–6, and 52.210–7 are revised to read as follows:

52.210–5 New Material.

As prescribed in 10.011(e), insert the following clause:

NEW MATERIALS (MAY 1995)

(a) *Definitions.*

Material, as used in this clause, includes, but is not limited to, raw material, parts, items, components, and end products.

New, as used in this clause, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

Other than new, as used in this clause, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

(b) Unless this contract specifies otherwise, the Contractor represents that the supplies, including any residual inventory and former Government surplus property identified under the Other Than New Material, Residual Inventory, and Former Government Surplus Property clause of this contract, are new and are not of such age or so deteriorated as to impair their usefulness or safety.

(c) If the Contractor believes that furnishing other than new material will be in the Government's interest, the Contractor shall so notify the Contracting Officer in writing and request authority to use such material. The Contractor's notice shall include the reasons for the request along with a proposal for any consideration due the Government if the Contracting Officer authorizes the use of other than new material.

(End of clause)

52.210–6 Listing of Other Than New Material, Residual Inventory, and Former Government Surplus Property.

As prescribed in 10.011(f), insert the following provision:

LISTING OF OTHER THAN NEW MATERIAL, RESIDUAL INVENTORY, AND FORMER GOVERNMENT SURPLUS PROPERTY (MAY 1995)

(a) *Definitions.*

Material, as used in this provision, includes, but is not limited to, raw material, parts, items, components, and end products.

New, as used in this provision, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

Other than new, as used in this provision, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

(b) If the offeror proposes to furnish other than new material, residual inventory resulting from terminated Government contracts, or former Government surplus property, the offeror shall provide the following information as an attachment to the offer:

(1) A complete description of the materials.

(2) Quantity.

(3) Name of Government agency from which acquired.

(4) Date of acquisition, if applicable.

No other than new material, residual inventory or former Government surplus property other than that listed on the attachment shall be furnished under the

resulting contract unless authorized in writing by the Contracting Officer.

(c) All material to be furnished under the resultant contract must comply with the terms and specifications contained in the contract.

(End of provision)

52.210–7 Other Than New Material, Residual Inventory, and Former Government Surplus Property.

As prescribed in 10.011(g), insert the following clause:

OTHER THAN NEW MATERIAL, RESIDUAL INVENTORY, AND FORMER GOVERNMENT SURPLUS PROPERTY (MAY 1995)

(a) *Definitions.*

Material, as used in this clause, includes, but is not limited to, raw material, parts, items, components, and end products.

New, as used in this clause, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.

Other than new, as used in this clause, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

(b) The Contractor shall not furnish any other than new material, residual inventory resulting from terminated Government contracts, or former Government surplus property, unless such materials were listed in the applicable attachment to the offer and approved by the Contracting Officer or unless otherwise authorized in writing by the Contracting Officer.

(c) All materials furnished under this contract shall comply with the terms and specifications contained in the contract.

(End of clause)

23. Section 52.223–4 is revised to read as follows:

52.223–4 Recovered Material Certification.

As prescribed in 23.405(a), insert the following provision:

RECOVERED MATERIAL CERTIFICATION (MAY 1995)

The offeror certifies, by signing this offer, that recovered materials, as defined in FAR 23.402, will be used as required by the applicable purchase descriptions.

(End of provision)

24. Sections 52.223–8 through 52.223–10 are added to read as follows:

52.223–8 Estimate of Percentage of Recovered Material for Designated Items To be Used in the Performance of the Contract.

As prescribed in 23.405(b)(1), insert the following provision:

ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL FOR DESIGNATED ITEMS TO BE USED IN THE PERFORMANCE OF THE CONTRACT (MAY 1995)

(a) By signing this offer, the offeror estimates that the total percentage(s) of recovered material for EPA Designated Items (see 40 CFR, Chapter 1, Subchapter I) to be used in the products and services to be provided under the terms and specifications set forth in this solicitation shall be as follows:

Item	Estimated percentage of recovered material–*
_____	_____
_____	_____

*In addition, for paper products, include the percentage of postconsumer material.

(b) Prospective offerors are cautioned that the Government will conclude that the percentage(s) of recovered materials to be used in products and services to be provided under any resulting contract shall be ''0%'' if the estimate(s) requested in this solicitation provision are left blank.

(c) Prospective offerors are further cautioned that estimated percentage(s) of recovered materials to be used in products and services to be provided under any resulting contract that are less than the requirements set forth in this solicitation may render a prospective offeror's offer nonresponsive.

(End of provision)

Alternate I (MAY 1955). As prescribed in 23.405(b)(2), used the basic provision and replace the words ''EPA Designated Items'' with ''Agency Designated Items'' in paragraph (a) of the basic provision.

Alternate II (MAY 1995). As prescribed in 23.405(b)(3), substitute the following paragraph (a) for paragraph (a) of the basic provision:

(a) By signing this offer, the offeror—

(1) Estimates that the total percentage(s) of recovered material for EPA Designated Items to be used in the products and services to be provided under the terms and specifications set forth in this solicitation shall be as follows:

Item	Estimated percentage of recovered material*
_____	_____
_____	_____

*In addition, for paper products, include the percentage of postconsumer material.

(2) Estimates that the total percentage(s) of recovered material for Agency Designated Items to be used in the products and services to be provided under the terms and specifications set forth in this solicitation shall be as follows:

Item	Percentage of recoverd material content utilized*	Total dollar amount of of item used
_____	_____	$_____
_____	_____	$_____
_____	_____	$_____

*In addition, for paper products, include the percentage of postconsumer material content utilized.

52.223–9 Certification of Percentage of Recovered Material Content for EPA Designated Items Used in Performance of the Contract.

As prescribed in 23.405(c), insert the following clause:

CERTIFICATION OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA DESIGNATED ITEMS USED IN PERFORMANCE OF THE CONTRACT (MAY 1995)

(a) As required under Section 6962 of the Solid Waste Disposal Act, an officer or employee of the Contractor shall execute the following certification annually as required in paragraph (b) of this clause:

CERTIFICATION

I, _____ (name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify that the following minimum recovered material content for EPA Designated Items was actually used in the performance of this contract during the preceding Government fiscal year (October 1-September 30, _____):

Item	Percentage of recovered material content utilized*	Total dollar amount of item used
_____	_____	$_____
_____	_____	$_____
_____	_____	$_____

*In addition, for paper products, include the percentage of postconsumer material content utilized.

_____

Signature of the Officer or Employee

_____

Typed Name of the Officer or Employee

_____

Title

_____

Name of Company, Firm, or Organization

_____

Date

(End of certification)

(b) The Contractor shall submit this certification annually to _____ * _____ by November 1, for the previous Government fiscal year (October 1 through September 30).

*To be completed in accordance with agency procedures.

(End of clause)

52.223–10 Waste Reduction Program.

As prescribed in 23.706, insert the following clause:

WASTE REDUCTION PROGRAM (MAY 1995)

(a) *Definition. Waste reduction,* as used in this clause, means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 12873, the Contractor shall establish a program to promote cost-effective waste reduction in all

operations and facilities covered by this contract. Any such program shall comply with applicable Federal, state, and local requirements.

(End of clause)

[FR Doc. 95–13256 Filed 5–30–95; 8:45 am]

BILLING CODE 6820–EPD–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAC 90–27, FAR Case 93–307, Item III]

RIN 9000–AG42

Federal Acquisition Regulation; Ozone Executive Order

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule which amends the Federal Acquisition Regulation (FAR) to provide policy for the acquisition of items that contain, use, or are manufactured with ozone-depleting substances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective Date:* May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–27, FAR case 93–307 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 93–307.

SUPPLEMENTARY INFORMATION:

A. Background

The Environmental Protection Agency (EPA) promulgated 40 CFR Part 82, Subpart D (rule) to satisfy EPA's obligation under Section 613, Title VI of the Clean Air Act Amendments of 1990. The EPA rule requires each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of Title VI of the Clean Air Act and to maximize the substitution of safe alternatives for ozone-depleting substances as identified under Section 612 of the Act. The EPA rule also requires each department, agency, and instrumentality of the United States to certify to OMB, within twelve months of the final publication of the rule, that its procurement regulations have been modified in accordance with the rule. The EPA rule complements Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances (58 FR 21881, April 23, 1993). Both the Executive Order and the EPA rule require that new contracts provide that any acquired products containing or manufactured with class I or class II ozone-depleting substances, or containers of class I or class II ozone-depleting substances, be labeled in accordance with Section 611 of the 1990 amendments to the Clean Air Act.

This interim FAR rule implements the requirements of Executive Order 12843 and 40 CFR Part 82. The rule contains two clauses; one clause requires contractors to label products containing ozone-depleting substances, and the other clause requires contractors to comply with Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the contract. 42 U.S.C. 7671g addresses a national recycling and emission reduction program, and 42 U.S.C. 7671h addresses servicing of motor vehicle air conditioners.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the Clean Air Act requirements are already applicable to companies in industries supplying goods and services made with or containing ozone-depleting substances. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–27, FAR Case 93–307), in correspondence.

C. Paperwork Reduction Act

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

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this rule implements Executive Order 12843, which required FAR revisions by October 18, 1993, and 42 CFR Part 82, which required agency acquisition regulation revisions by October 24, 1994. Further, 42 CFR 82.84 states that, for agencies subject to the FAR (48 CFR Chapter 1), amendment of the FAR consistent with 42 CFR 82.84 shall satisfy, for those agencies, the requirement of 42 CFR 82.84 to revise agency acquisition regulations. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of a final rule.

List of Subjects in 48 CFR Parts 23 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 23 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Subpart 23.8 is added to read as follows:

Subpart 23.8—Ozone-Depleting Substances

Sec.
23.800 Scope of subpart.
23.801 Authorities.
23.802 Definitions.
23.803 Policy.
23.804 Contract clauses.

23.800 Scope of subpart.

This subpart sets forth policies and procedures for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances. This subpart does not apply to contracts performed outside the United States, its possessions, and Puerto Rico.

23.801 Authorities.

(a) Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*).

(b) Executive Order 12843, April 21, 1993.

(c) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR part 82).

23.802 Definitions.

Class I substance means any substance designated as class I by EPA (40 CFR part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform.

Class II substance means any substance designated as class II by EPA (40 CFR part 82), including but not limited to hydrochlorofluorocarbons.

23.803 Policy.

(a) It is the policy of the Federal Government that Federal agencies:

(1) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and

(2) Give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere.

(b) In preparing specifications and purchase descriptions, and in the acquisition of supplies and services, agencies shall ensure that acquisitions:

(1) Comply with the requirements of Title VI of the Clean Air Act, Executive Order 12843, and 40 CFR 82.84(a) (2), (3), (4), and (5); and

(2) Substitute safe alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1).

23.804 Contract clauses.

(a) The contracting officer shall insert the clause at 52.223–11, Ozone-Depleting Substances, in solicitations and contracts for supplies containing or manufactured with class I or class II ozone-depleting substances or containers of class I or class II ozone-depleting substances.

(b) The contracting officer shall insert the clause at 52.223–12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using class I or class II ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicle, refrigerators, chillers, or freezers.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. and 4. Section 52.223–11 and 52.223–12 are added to read as follows:

52.223–11 Ozone-Depleting Substances.

As prescribed in 23.804(a), insert the following clause:

OZONE-DEPLETING SUBSTANCES (MAY 1995)

(a) *Definitions.*

Class I substance, as used in this clause, means any substance designated as class I by the Environmental Protection Agency (EPA) (40 CFR Part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform.

Class II substance, as used in this clause, means any substance designated as class II by EPA (40 CFR Part 82), including but not limited to hydrochlorofluorocarbons.

(b) As required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, the Contractor shall label products which contain a class I or class II ozone-depleting substance or are manufactured with a process that uses class I or class II ozone-depleting substances, or containers of class I or class II ozone-depleting substances, as follows:

''WARNING: Contains (or manufactured with, if applicable) _____*_____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.''

*The Contractor shall insert the name of the substance(s).

(End of clause)

52.223–12 Refrigeration Equipment and Air Conditioners.

As prescribed in 23.804(b), insert the following clause:

REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(End of clause)

[FR Doc. 95–13256 Filed 5–30–95; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25 and 52

[FAC 90–27, FAR Case 95–601, Item IV]

RIN 9000–AG43

Federal Acquisition Regulation; Addition of Three New European Community Countries

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to add Austria, Finland, and Sweden to the FAR definition of ''European Community (EC) Country'' and to the definition of ''sanctioned member state of the EC''. The United States Trade Representative has requested this action be taken as soon as possible because these countries have joined the EC on January 1, 1995. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Effective Date: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McAndrew at (202) 501–1474 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 95–601.

SUPPLEMENTARY INFORMATION:

A. Background

By letter, dated December 21, 1994, the General Counsel, United States Trade Representative Office, requested that three countries, Austria, Finland and Sweden, be added to sections 25.401 and 25.1001 because these countries became members of the European Union on January 1, 1995. The General Counsel requested these changes as quickly as possible after the new year.

B. Regulatory Flexibility Act

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely adds three countries to the definition of European country in section 25.401 and the same three countries are added to the definition of sanctioned member state of the EC. This is mostly a ministerial rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–27, FAR Case 95–601), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Section 25.401 is amended by revising the definition ''EC country'' to read as follows:

25.401 Definitions.

* * * * *

EC country, as used in this subpart, means Austria, Belgium, Denmark, Federal Republic of Germany, Finland, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

* * * * *

3. Section 25.1001 is amended by revising the definition ''Sanctioned member state of the EC'' to read as follows:

25.1001 Definitions.

* * * * *

Sanctioned member state of the EC means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.225–15 [Amended]

4. Section 52.225–15 is amended by revising the date in the clause heading to read ''(MAY 1995)''; and in the definition of ''EC country'' by adding in alphabetical order the countries ''Austria'', ''Finland'', and ''Sweden''.

52.225–17 [Amended]

5. Section 52.225–17 is amended by revising the date in the clause heading to read ''(MAY 1995)''; and in the definition of ''European Community country'' by adding in alphabetical order the countries ''Austria'', ''Finland'', and ''Sweden''.

52.225–18 [Amended]

6. Section 52.225–18 is amended by revising the date in the clause heading to read ''(MAY 1995)''; and in the definition of ''Sanctioned member state of the EC'' by adding in alphabetical order the countries ''Austria'', ''Finland'', and ''Sweden''.

52.225–19 [Amended]

7. Section 52.225–19 is amended by revising the date in the clause heading to read ''(MAY 1995)''; and in the definition of ''Sanctioned member state of the European Community (EC'' by adding in alphabetical order the countries ''Austria'', ''Finland'', and ''Sweden''.

[FR Doc. 95–13258 Filed 5–30–95; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 90–27; FAR Case 94–5; Item V]

Federal Acquisition Regulation; Trade Sanctions—Germany

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect the termination of the trade sanctions on the Federal Republic of Germany that had been imposed in May 1993. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 94–5.

SUPPLEMENTARY INFORMATION:

A. Background

A U.S. Trade Representative determination, published in the **Federal Register** at 59 FR 11360, March 10, 1994, terminated the sanctions that had been imposed on the Federal Republic of Germany, published at 58 FR 31136, May 28, 1993, on the basis of assurance from Germany that it would not apply the discriminatory provisions of the Utilities Directive of the European Union to procurement of U.S. goods by its telecommunications utilities.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–27, FAR case 94–5), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

25.1001 [Amended]

2. Section 25.1001 is amended in the definition of ''Sanctioned member state of the EC'' by removing ''Federal Republic of Germany,''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.225–18 [Amended]

3. Section 52.225–18 is amended by removing ''Federal Republic of Germany,'' from the definition ''Sanctioned member state of the EC''.

52.225–19 [Amended]

4. Section 52.225–19 is amended by removing ''Federal Republic of Germany,'' from the definition ''Sanctioned member state of the European Community (EC)''.

[FR Doc. 95–13259 Filed 5–30–95; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90–27; FAR Case 94–9; Item VI]

RIN 9000–AC14

Federal Acquisition Regulation; Interdivisional Transfers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR). The cost principle criteria for cost of interdivisional transfers are amended to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective Date:* May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–27, FAR case 94–9 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–27, FAR case 94–9.

SUPPLEMENTARY INFORMATION:

A. Background

This interim FAR rule revises FAR 31.205–26, Material Costs, to make it clear that interdivisional transfers made at price should be treated in the same manner as subcontracts for purposes of applying the requirements of FAR 15.804–3.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. The cost principles only apply to contracts for which cost or pricing data has been submitted. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 90–27, FAR case 94–9), in correspondence.

C. Paperwork Reduction Act

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

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to provide an immediate benefit to Government and Industry. The rule will permit interdivisional transfers at price rather than cost for commercial items, under criteria identical to those used in applying the exception provisions of the Truth in Negotiations Act to subcontracts. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 31

Government procurement.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–26 is amended by revising paragraph (e) to read as follows:

31.205–26 Material costs.

* * * * *

(e) Allowance for all materials, supplies, and services that are sold or transferred between any divisions, subsidiaries, or affiliates of the contractor under a common control shall be on the basis of cost incurred in accordance with this subpart. However, allowance may be at a price when it is the established practice of the transferring organization to price interorganizational transfers at other than cost for commercial work of the contractor or any division, subsidiary, or affiliate of the contractor under a common control, and when—

(1)(i) The price is based on an ''established catalog or market price of commercial items sold in substantial quantities to the general public'' in accordance with 15.804–3;

(ii) The price is based on ''adequate price competition'' in accordance with 15.804–3; or

(iii) A waiver is granted in accordance with 15.804–3(i); and

(2) The contracting officer has not determined the price to be unreasonable.

* * * * *

[FR Doc. 95–13260 Filed 5–30–95; 8:45 am]

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federal register

Wednesday
May 31, 1995

Part IX

The President

Executive Order 12961—Presidential Advisory Committee on Gulf War Veterans' Illnesses

Federal Register
Vol. 60, No. 104
Wednesday, May 31, 1995

Presidential Documents

Title 3—

The President

Executive Order 12961 of May 26, 1995

Presidential Advisory Committee on Gulf War Veterans' Illnesses

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is hereby established the Presidential Advisory Committee on Gulf War Veterans' Illnesses (the ''Committee''). The Committee shall be composed of not more than 12 members to be appointed by the President. The members of the Committee shall have expertise relevant to the functions of the Committee and shall not be full-time officials or employees of the executive branch of the Federal Government. The Committee shall be subject to the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2.

(b) The President shall designate a Chairperson from among the members of the Committee.

Sec. 2. *Functions.* (a) The Committee shall report to the President through the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Health and Human Services.

(b) The Committee shall provide advice and recommendations based on its review of the following matters:

(1) *Research:* epidemiological, clinical, and other research concerning Gulf War veterans' illnesses.

(2) *Coordinating Efforts:* the activities of the Persian Gulf Veterans Coordinating Board, including the Research Coordinating Council, the Clinical Working Group, and the Disability and Compensation Working Group.

(3) *Medical Treatment:* medical examinations and treatment in connection with Gulf War veterans' illnesses, including the Comprehensive Clinical Evaluation Program and the Persian Gulf Registry Medical Examination Program.

(4) *Outreach:* government-sponsored outreach efforts such as hotlines and newsletters related to Gulf War veterans' illnesses.

(5) *External Reviews:* the steps taken to implement recommendations in external reviews by the Institute of Medicine's Committee to Review the Health Consequences of Service During the Persian Gulf War, the Defense Science Board Task Force on Persian Gulf War Health Effects, the National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, the Persian Gulf Expert Scientific Committee, and other bodies.

(6) *Risk Factors:* the possible risks associated with service in the Persian Gulf Conflict in general and, specifically, with prophylactic drugs and vaccines, infectious diseases, environmental chemicals, radiation and toxic substances, smoke from oil well fires, depleted uranium, physical and psychological stress, and other factors applicable to the Persian Gulf Conflict.

(7) *Chemical and Biological Weapons:* information related to reports of the possible detection of chemical or biological weapons during the Persian Gulf Conflict.

(c) It shall not be a function of the Committee to conduct scientific research. The Committee shall review information and provide advice and

recommendations on the activities undertaken related to the matters described in (b) above.

(d) It shall not be a function of the Committee to provide advice or recommendations on any legal liability of the Federal Government for any claims or potential claims against the Federal Government.

(e) As used herein, ''Gulf War Veterans' Illnesses'' means the symptoms and illnesses reported by United States uniformed services personnel who served in the Persian Gulf Conflict.

(f) The Committee shall submit an interim report within 6 months of the first meeting of the Committee and a final report by December 31, 1996, unless otherwise provided by the President.

Sec. 3. *Administration.* (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Committee with such information as it may require for purposes of carrying out its functions.

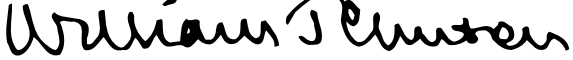
(b) Members of the Committee shall be compensated in accordance with Federal law. Committee members may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(c) To the extent permitted by law, and subject to the availability of appropriations, the Department of Defense shall provide the Committee with such funds as may be necessary for the performance of its functions.

Sec. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the Committee, except that of reporting annually to the Congress, shall be performed by the Secretary of Defense, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate 30 days after submitting its final report.

(c) This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.



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