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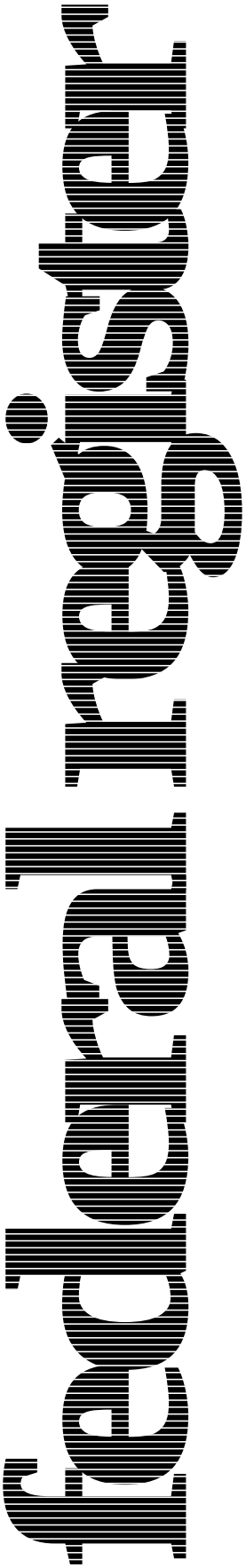

Monday
June 19, 1995

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 802

RIN 0580–AA39

Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Direct final rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS), of the Grain Inspection, Packers and Stockyards Administration is amending the regulations under the United States Grain Standards Act, as amended, entitled Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems. FGIS is incorporating by reference the applicable requirements of the National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' 1994 edition (Handbook 44) and continues to adopt all of the requirements of NIST Handbook 105–1, ''Specifications and Tolerances for Reference Standard Weights and Measures,'' 1990 revision (Handbook 105–1). Currently, the 1990 Edition of Handbook 44 and the 1990 edition of Handbook 105–1 are incorporated by reference.

DATES: This rule will be effective on August 18, 1995, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before July 19, 1995. If adverse comments are received, we will publish a document in the **Federal Register.**

ADDRESSES: Please send any adverse comments or notice of intent to submit adverse comments to George Wollam, GIPSA–FGIS, USDA, Room 0623–S, P.O. Box 96454, Washington, DC 20090–6454; FAX (202) 720–4628. All comments received will be made available for public inspection at the above address during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not-significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Executive Order 12778

This amended rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. The United States Grain Standards Act provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflicts with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. Most users of the official inspection and weighing services and those persons that perform those services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Further, the standards are applied equally to all entities.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements in Part 68 have been approved previously by OMB and assigned OMB No. 0580–0013.

Background

Part 802 of the regulations, Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems (7 CFR 802.0–802.1), sets forth certain procedures, specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X, and Class Y weighing services. This review of the regulations includes a determination of continued need for and consequences of the regulations. An objective of the review is to ensure that the regulations are consistent with FGIS policy and authority and are up-to-date. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, therefore, will incorporate the 1994 edition of Handbook 44 by reference into Part 802 of the regulations and the 1990 revision of Handbook 105–1 continues to be adopted in order to update the regulations.

Effective December 4, 1991, FGIS incorporated by reference into Part 802 of the regulations most provisions in the National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' 1990 edition (Handbook 44), and all provisions in NIST Handbook 105–1, ''Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures,'' 1990 edition (Handbook 105–1) NIST rule (53 FR 37727). Those provisions in Handbook 44 that obviously did not pertain to FGIS services were not incorporated by reference. The provisions that were not incorporated are listed in section 802.0(b) of the regulations.

We are publishing this rule without a prior proposal because we regularly update this portion of the regulations and view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the

Federal Register unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final, confirming that it is effective on the date indicated in this document.

Direct Final Action

In 1991 FGIS incorporated by reference the 1990 edition of Handbook 105–1. FGIS will continue to adopt this edition by reference in section 802.0(a) of the regulations.

The 1990 edition of Handbook 44 has been changed annually by NIST as new items are adopted, deleted, or revised by the National Conference on Weights and Measures. Many of these changes were for clarity. Further, most State weights and measures organizations automatically adopt each new edition of Handbook 44 and Handbook 105–1. FGIS will revise section 802.0(a) by incorporating by reference the 1994 edition of Handbook 44 including the following sections:

Section 1.10 General Code
Section 2.20 Scales
Section 2.22 Automatic Bulk Weighing Systems
Section 2.23 Weights

In addition, recent amendments to the U.S. Grain Standards Act (Public Law 103–156) have included the authority to provide for the testing of weighing equipment used for other than weighing grain. FGIS is referring to this type of testing as commercial testing and is including references to commercial services in its regulations.

The following table lists those relevant codes and paragraphs, but not definitions, in which amendments and editorial changes were made in 1991 through 1994 by the 75th, 76th, 77th, and 78th National Conference on Weights and Measures as they appeared in the 1991 through 1994 editions of Handbook 44. The column headed ''Action'' indicates changes noted as ''added'', ''amended'', ''deleted'', ''renumbered'', or provides an explanation.

Code	Paragraph	Action
	1990 Amendments	
General	G–S.5.3.1 & G–S.5.6	Retroactive.
Scales	S.1.7	Amended.
Scales	S.2.1.5	Added.
Scales	S.6.1., S.6.2.1, S.6.3., S.6.4	Deleted.
Scales	S.6.5., S.6.6., S.6.7., S.6.7.1	Deleted.
Scales	S.6.7.2., S.6.8., S.6.10	Deleted.
Scales	S.6.11	Deleted.
Scales	S.6.1. and S.6.2	Renumbered.
Scales	S.6.3	Added.
Scales	Tables S.6.3.a & b	Added.
Scales	S.6.11	Amended.
Scales	N.3.1	Amended.
Scales	N.3.1.1	Deleted.
Scales	N.3.1.1., N.3.1.2, N.3.1.3	Added.
Scales	N.4.–N.4.3.1.4	Added.
Scales	T.N.3.6.–T.N.3.6.4	Amended.
Scales	T.N.3.7	Renumbered.
Scales	T.N.3.8	Renumbered.
Scales	UR.5	Added.
Scales	Section T.1	Amended.
Scales	Table T.1.1	Added.
Scales	T.N.8.1.3	Amended.
	1990 Editorial Changes	
Scales	T.1.1.1	Deleted.
Scales	Table 8	Class III entries restored.
	1991 Amendments	
General	G–S.1	Amended.
General	G–UR.2.3	Amended.
General	G–UR.4.1	Amended.
Scales	S.1.11	Amended.
Scales	S.2.4	Amended.
Scales	N.1.3.4	Amended.
Scales	N.4	Footnote Added.
Scales	N.4.3.1.3	Amended.
Automatic Bulk Weighing Systems	UR.4	Amended.

Code	Paragraph	Action
	1991 Editorial Changes	
General	G–S.5.2.1	Deleted recorded representation reference.
Scales	S.6.1	Deleted reference to T.1.3.
Scales	Table S.6.3.a	Symbols added.
Scales	Table S.6.3.b	Added Note 17 nonretroactive.
Scales	S.6.4	Added from 1989 Handbook.
Scales	Table T.1.1	Corrected T.N.3.7 to T.N.3.8.
	1992 Amendments	
Scales	S.1.1.1	Amended.
Scales	S.1.7	Amended.
Scales	S.1.12	Added.
Scales	S.2.4.1	Added.
Scales	Tables S.6.3.a. and S.6.3.b	Amended.
Scales	N.1.3.7	Added.
Scales	N.1.3.7. to N.1.3.8	Renumbered.
Scales	Table T.1.1	Amended.
Scales	T.N.3.6	Amended.
Scales	T.N.3.6.2	Amended.
Scales	T.N.3.6.4	Amended.
Scales	T.N.3.7	Amended.
Scales	UR.1.4	Added.
Scales	Table 7a	Amended.
Scales	UR.3.3	Added note at end of section.
Scales	UR.3.7	Amended.
Scales	UR.3.9	Added.
Scales	UR.5	Amended.
Automatic Bulk Weighing:		
Systems	UR.1.1 Table	Deleted.
Systems	UR.1.1	Amended.
	1992 Editorial Changes	
All		Changes made to include SI units.
Scales	Table T.1.1	New headings second line.
Scales	T.3	Deleted T.3.1 in the 1st paragraph.
	1993 Amendments	
General	G–S.8	Amended.
Scales	S.1.1	Amended.
Scales	Table S.1.11	Amended.
Scales	S.1.13	Added.
Scales	S.5.4	Added.
Scales	N.4.3.1.1	Amended.
Scales	Renumber N.5 to N.6	Renumbered.
Scales	N.5 (New)	Added.
Scales	UR.2.6.1	Amended.
Automatic Bulk Weighing:		
Systems	S.3.2	Deleted.
Systems	S.3.3	Added.
	1993 Editorial Changes	
Scales	Table 4	Deleted ''recommended''.
Scales	Index	Index added for scales code.

Changes in Handbook 44 also necessitate a revision to 802.0(b). Therefore, FGIS revises section 802.0(b) by revising the list of those provisions that do not pertain to FGIS services. These provisions are as follows:

S.1.8. Computing Scales

N.3. Recommended Minimum Test Weights and Test Loads

N.5. Nominal Capacity of Prescription Scales

T.2.3. Prescription Scales

T.2.4. Jewelers' Scales (all sections)

T.2.5. Dairy—Product-Test Scales (all sections)

T.N.3.9. Materials Test on Customer-Operated Bulk-Weighing Systems for Recycled Materials

List of Subjects in 7 CFR Part 802

Administrative practice and procedure, Export, Grain, Incorporation by reference, Reporting and recordkeeping requirements.

For reasons set out in the preamble, 7 CFR Part 802 is amended as follows:

PART 802—OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

1. The authority citation for Part 802 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 802.0 is revised to read as follows:

§ 802.0 Applicability.

(a) The requirements set forth in this Part 802 describe certain specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X and Class Y weighing services, official inspection services, and commercial services under the Act. All scales used for official grain weight and inspection certification services provided by FGIS shall meet applicable requirements contained in the FGIS Weighing Handbook, the General Code, the Scales Code, the Automatic Bulk Weighing Systems Code, and the Weights Code of the 1994 edition of National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices'' (Handbook 44); and NIST HANDBOOK 105–1 (1990 Edition), ''Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures'' (Handbook 105–1). These requirements are confirmed to be met by having National Type Evaluation Program or Federal Grain Inspection Service type approval. Scales used for commercial purposes will be required to meet only the applicable requirements of the 1994 edition of the NIST Handbook–44. Pursuant to the provisions of 5 U.S.C. 552(a), with the exception of the Handbook 44 requirements listed in paragraph (b) of this section, the materials in Handbooks 44 and 105–1 are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.** The NIST Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20403. They are also available for inspect at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) The following Handbook 44 requirements are not incorporated by reference:

Scales Code (2.20)

S.1.8. Computer Scales
S.1.8.2. Money-Value Computation
S.1.8.3. Customer's Indications
S.1.8.4. Recorded Representations, Point of Sale
S.2.5.2. Jeweler's, Prescription, & Class I & II Scales
S.3.3. Scoop Counterbalance
N.1.3.2 Dairy-Product Test Scales
N.1.5. Discrimination Test (Not adopted for Grain Test Scales only)
N.1.8. Material Tests
N.3.1.2. Interim Approval
N.3.1.3. Enforcement Action for Inaccuracy
N.4. Coupled-in-Motion Railroad Weighing Systems
N.5. Nominal Capacity of Prescription Scales
T.1.2. Postal and Parcel Post Scales
T.2.3. Prescription Scales
T.2.4. Jewelers' Scales (all sections)
T.2.5. Dairy—Product-Test Scales (all sections)
T.N.3.9. Materials Test on Customer-Operated Bulk-Weighing Systems for Recycled Materials
UR.1.4. Grain Test Scales: Value of Scale Divisions
UR.3.1. Recommended Minimum Load
UR.3.1.1. Minimum Load, Grain Dockage

Automatic Bulk Weighing Systems (2.22):
UR.1.1. Selection Requirements for Systems Used to Weight Grain.

Dated: June 6, 1995.

James R. Baker,

Administrator.

[FR Doc. 95–14624 Filed 6–16–95; 8:45 am]

BILLING CODE 3410–EN–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 747, 790 and 792

Changes in Citations, Office Descriptions and Information Centers

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This final rule makes housekeeping changes to NCUA's regulations. Corrections are made to certain citations to the United States Code found in the regulations and descriptions of two NCUA offices are updated to reflect current agency structure.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Special Counsel to the General Counsel, at 703–544–6540.

SUPPLEMENTARY INFORMATION: Section 701.14 and part 747, subpart J contain incorrect citations to the United States Code. These citations were correct when the regulations were originally drafted, but have changed due to a recodification of the U.S. Code. The corrections are made in this document. Part 790 sets forth descriptions of the various NCUA offices. Two updates need to be made to these descriptions. First, the Office of Chief Economist and Policy Development, described in Section 790.2(b)(14) has been redesignated as the Office of Investment Services. The duties and responsibilities of the Office of Investment Services are somewhat different from the former office. Modifications to both the office name and description are made. Second, the structure of regional office management has recently been modified. Senior regional management formerly consisted of a Regional Director, an Associate Regional Director and a Deputy Regional Director. The titles and duties of these officials are found in Section 790.2(c)(2). Regional management now consists of a Regional Director, an Associate Regional Director for Programs and an Associate Regional Director for Operations. Modifications to Section 790.2(c)(2) are made to reflect the current structure and duties.

Part 792 contains, among other things, a description of the NCUA's information centers for purposes of the Freedom of Information Act. The Asset Liquidation Management Center is added to Section 792.2(f) as an agency information center.

Since these changes are housekeeping and do not have any substantive effect on credit unions, the Board finds it unnecessary to either issue a proposed rule or to have a delayed effective date. Therefore these changes are issued in final form and are effective upon publication.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The types of changes made by this rule have no economic impact on credit unions. These are merely housekeeping changes. Therefore, the NCUA Board has determined and certifies that, under the authority granted in 5 U.S.C. 605(b), this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This final rule does not change any paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. Since these are housekeeping changes only, there is no effect on state interests.

List of Subjects in 12 CFR Parts 701, 747, 790 and 792

Credit unions.

By the National Credit Union Administration Board on June 12, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, for the reasons set out in the preamble, 12 CFR Ch. VII is amended as set forth below.

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and Public Law 101–73. Section 701.6 is also authorized by 12 U.S.C. 1601 et seq., 42 U.S.C. 1981 and 42 U.S.C. 1601–1610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

§ 701.14 [Amended]

1a. In § 701.14, paragraph (a) is amended by removing the citation ''12 U.S.C. 1791'' and adding in its place ''12 U.S.C. 1790a''.

PART 747—ADMINISTRATIVE ACTIONS, ADJUCICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

2. The authority citation for part 747 continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1786, 12 U.S.C.1784, 12 U.S.C. 1787.

§§ 747.901, 747.902, 747.904 [Amended]

3. Remove the citation ''12 U.S.C. 1791'' and add, in its place, ''12 U.S.C. 1790a'' in the following places:

(a) § 747.901;

(b) § 747.902;

(c) § 747.904(b)(2).

PART 790—DESCRIPTION ON NCUA; REQUESTS FOR AGENCY ACTION

4. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1789, 12 U.S.C. 1795f.

5. Section 790.2(b) is amended by revising paragraph (b)(14) as set forth below; § 790.2(c)(2) is amended by revising the 5th, 6th and 7th sentences as set forth below:

§ 790.2 Central and regional office organization.

* * * * *

(b) Central Office.* * *

(14) Office of Investment Services. The Office of Investment Services is responsible for providing investment expertise and advice to the Board and agency staff. A working relationship is maintained with the financial marketplace to develop resources available to the NCUA and keep abreast of product initiatives. The NCUA Investment Hotline housed in this Office is a toll-free number that is available to examiners, credit unions, and financial product vendors to ask investment related questions. The Hotline provides NCUA an opportunity to be aware of current investment issues as they arise in credit unions and has permitted NCUA to become proactive, rather than reactive, to such issues. In addition, investment officers advise agency management on the purchase of authorized investments for the NCUSIF and the CLF.

* * * * *

(c) Regional Offices. * * *

(2) * * * The Regional Director is aided by an Associate Regional Director for Operations and Associate Regional Director for Programs. Staff working in the Regional Office report to the Associate Regional Director for Operations. Each region is divided into examiner districts, each assigned to a Supervisory Credit Union Examiner; groups of examiners are directed by a Supervisory Credit Union Examiner, each of whom in turn reports directly to the Associate Regional Director for Programs. * * *

PART 792—REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND PRIVACY ACT, AND BY SUBPOENA; SECURITY PROCEDURES FOR CLASSIFIED INFORMATION

6. The authority citation for part 792 continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1789, 12 U.S.C. 1795f, 5 U.S.C. 552, 5 U.S.C. 552a, Executive Orders 12600 and 12356.

7. Section 792.2 is amended by revising the first sentence of paragraph (f) as follows:

§ 792.2 Information made available to the public and requests for such information.

* * * * *

(f) Information Centers. The Central Office, Regional Offices and the Asset Management Liquidation Center are designated as Information Centers for the NCUA. * * *

* * * * *

[FR Doc. 95–14872 Filed 6–16–95; 8:45 am]

BILLING CODE 7535–01–U

12 CFR Part 790

Addition of Specific Exemptions Under the Privacy Act

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The NCUA Board has adopted these amendments as proposed. The amendments reflect the addition of the (j)(2) and (k)(2) exemptions of the Privacy Act to the NCUA regulations that describe exempt systems of records, and link the ''Office of Inspector General (OIG) Investigative Records—NCUA,'' system NCUA–20, to these Privacy Act exemptions.

EFFECTIVE DATE: July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Alexandra B. Keith, Counsel to the Inspector General, Office of Inspector General, National Credit Union Administration, 5th floor, 1775 Duke Street, Alexandria, VA, 22314, Telephone: 703–518–6352.

SUPPLEMENTARY INFORMATION: In 1989, in response to the Inspector General Act Amendments, Pub. L. 100–504, the National Credit Union Administration Board established a statutorily designated Inspector General (IG), to whom the functions of the former NCUA Office of Internal Auditor, were transferred. The functions of NCUA's Office of Inspector General (OIG) include: (1) The detection and prevention of waste, fraud, and abuse and (2) the promotion of economy and efficiency in NCUA programs and operations. As one of its principal functions, the OIG performs investigations into alleged violations of criminal law in connection with NCUA's programs and operations, pursuant to the IG Act of 1978, as amended. In conjunction with these functions, OIG reports suspected violations of criminal and civil law to the U.S. Attorney General.

Section (j)(2) of the Privacy Act (Title 5 U.S.C. 552a (j)(2)) permits the head of an agency to promulgate rules to exempt a system of records from certain requirements if the system is maintained by an agency component or sub component whose principal function pertains to the enforcement of criminal laws and if the system of records is compiled for a criminal law enforcement purpose. Accordingly, to

the extent it includes this kind of records, the OIG Investigative Records system of records is exempt from the following sections of 552a of Title 5 U.S.C.: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g), as well as from the corresponding regulatory subsections.

Section (k)(2) (Title 5 U.S.C. 552a(k)(2)) permits exemption from certain requirements if the system consists of investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2); Provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source should be held in confidence. Accordingly, to the extent that it includes these kinds of records, this system of records is also exempt under Section (k)(2) from the following sections of 552a of Title 5 U.S.C.: (c)(3);(d); (e)(1); (e)(4)(G), (H), and (I); and (f), as well as from the corresponding regulatory subsections. This rule, amending 12 CFR 792.34, makes NCUA's regulations consistent with those of the majority of agencies with statutory IG's.

Summary of Comments and Discussion of Issues

The agency received no comments on its proposed rule.

Overview of Final Rule

The final rule is the same as the proposed rule (See 60 FR 18036, April 10, 1995). Two Privacy Act exemptions, 5 U.S.C. 552 (j)(2) and 5 U.S.C. 552a(k)(2) were proposed as discussed above.

Regulatory Procedures

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NCUA certifies that this rule does not have a significant economic impact on a substantial number of small entities. The amendments to 12 CFR are procedural in nature and will aid an NCUA office to perform its criminal law enforcement function.

Paperwork Reduction Act

These amendments contain no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Executive Order 12612

This amendment to NCUA's systems of record notice does not affect state regulation of credit unions.

List of Subjects in 12 CFR Part 792

Criminal penalties, Freedom of Information, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

By the National Credit Union Administration Board on June 12, 1995.

Becky Baker,

Secretary of the Board.

Accordingly, the proposed rule adding two new Privacy Act exemptions to the Office of Inspector General system of investigative records to 12 CFR part 792, is adopted by the NCUA Board as a final rule as follows:

PART 792—[AMENDED]

Subpart B—The Privacy Act

1. The authority citation for part 792 is revised to read as follows:

Authority: 12 U.S.C. 1766(a) and 1789(a)(7); 5 U.S.C. App. 3. Subpart B is also issued under 5 U.S.C. 552a.

2. In § 792.34, a new paragraph (b)(3) is added to read as follows:

§ 792.34 Exemptions.

* * * * *

(b) * * *

(3) System NCUA–20, entitled, ''Office of Inspector General (OIG) Investigative Records,'' consists of OIG records of closed and pending investigations of individuals alleged to have been involved in criminal violations. The records in this system are exempted pursuant to Sections (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), from sections (c)(3); (d); (e)(1); (e)(4)(G); (e)(4)(H); (e)(4)(I); and (f). The records in this system are also exempted pursuant to Section (j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), from sections (c)(3); (c)(4); (d); (e)(1); (e)(2); (e)(3); and (g).

* * * * *

[FR Doc. 95–14873 Filed 6–16–95; 8:45 am]

BILLING CODE 7535–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–67–1–6130a; FRL–5192–3]

Approval and Promulgation of Implementation Plans; Kentucky: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky through the Kentucky Natural Resources and Environmental Protection Cabinet for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), which was implemented by November 15, 1994. This implementation plan was submitted by the Commonwealth on November 13, 1992, to satisfy the federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This action will be effective August 18, 1995 unless notice is received July 19, 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: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the Commonwealth of Kentucky may be examined during normal business hours at the following locations:

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

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

Kentucky Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is (404)347–3555 extension 4195.

SUPPLEMENTARY INFORMATION:

Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a PROGRAM, and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA and the EPA guidance document *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments.* In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507 (a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The Commonwealth of Kentucky has addressed these requirements and established a PROGRAM as described below.

1. Small Business Assistance Program (SBAP)

Kentucky has established a mechanism to implement the following six requirements set forth in section 507 of title V of the CAA:

A. The establishment of adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further comply with the CAA;

B. The establishment of adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

C. The development of a compliance and technical assistance program for small business stationary sources which assist small businesses in determining applicable permit requirements under the CAA in a timely and efficient manner;

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

E. The development of adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors, or at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA; and

F. The development of procedures for consideration of requests from a small business stationary source for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet has charged the Kentucky Division for Air Quality with the responsibility of implementing the Small Business Assistance Program (SBAP). The division will contract several of the assistance activities with the University of Kentucky. The Division has identified specific employees to serve as contact points between the University, other Division programs, the office of the ombudsman, and the Compliance Advisory Panel. The Division assures that the SBAP will have computerized access to EPA sponsored electronic bulletin boards and hotlines such as EPA's Control Technology Center, Office of Pollution Prevention, and Technology Transfer Network.

The Division will provide information concerning compliance methods and technologies for small business stationary sources to operators and owners of small businesses. This will be accomplished through cooperation and interaction with the Kentucky Economic Development Cabinet, the Chamber of Commerce, various trade associations, and other appropriate groups. An information clearinghouse will be established to provide information concerning pollution prevention and/or accidental release detection and prevention programs which include information regarding alternative technologies, process changes, products, and methods of operation that reduce air pollution. Small businesses will be able to access information regarding their rights under the CAA, permitting procedures, applicable fees, when and where to apply for permits, enforcement processes, etc.

The Division is responsible for maintaining a Toll-Free hotline accessible to small businesses during normal business hours and will develop easily understood brochures describing rights and obligations under the CAA and new regulatory requirements and developments which might affect a small source. In addition, the SBAP will distribute information to small businesses through industry groups, trade associations, local chambers of commerce, and other organizations involved with small businesses. An on-site audit program will be developed in cooperation with the University of Kentucky to be utilized at the request of sources to evaluate work practices, compliance monitoring procedures and record keeping procedures. The Division will also develop procedures for consideration of requests from a source with regards to modification of work practices, compliance methods or implementation schedules.

2. Ombudsman

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. Kentucky has appointed a Small Business Ombudsman and established the Office of the Ombudsman in the Secretary's Office of the Natural Resources and Environmental Protection Cabinet. The Ombudsman will serve as an advocate to represent the interests of small businesses as they come under the regulation of the CAA. The Ombudsman's position was established in the Secretary's office in order to

allow the Ombudsman to have direct access to the Secretary, the Governor's office, and other agencies within state government.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires the state to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses. Four members will be selected by the state legislature who are owners, or represent owners, of small businesses; the majority and minority leadership in both the house and the senate shall each appoint one member. One member will be selected by the head of the agency in charge of the Air Pollution Permit Program. Kentucky chose to establish a nine member CAP with a membership consistent with the aforementioned CAA requirements with the following modification: the Secretary of the Natural Resources and Environmental Protection Cabinet shall select two members instead of one and the Secretary of the Economic Development Cabinet shall select one panel member to represent that agency. The SBAP will serve as the secretariat to the CAP in the development and dissemination or reports, advisory opinions, and other information.

The duties of the CAP include: providing for ensuring the overall effectiveness of the PROGRAM; rendering advisory opinions regarding the effectiveness of the state PROGRAM, the difficulties encountered, and the degree and severity of enforcement; reviewing information for small business stationary air pollution sources to assure such information is understandable by the layperson; and to make periodic reports to the Administrator of the Environmental Protection Agency in accordance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act.

4. Source Eligibility

Kentucky has incorporated section 507(c)(1) and defined a Small Business Stationary Source as a source that:

(1) Is owned or operated by a person who employs 100 or fewer individuals;
(2) is a small business concern as defined in the Small Business Act;
(3) is not a major stationary source as defined in Titles I and III of the CAA;
(4) emits less than 50 tons per year (tpy) of any regulated pollutant; and
(5) emits less than 75 tpy of all regulated pollutants.

Kentucky has established the following mechanisms as required by section 507: (1) A process for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c) (1) of the CAA; (2) A process for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) A process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Department determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

Final Action

In this action, EPA is approving the PROGRAM SIP revision submitted by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 18, 1995 unless, within 30 days of its publication, adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 18, 1995.

Under Section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).)

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

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

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

SIP approvals under 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 EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. Environmental Protection Agency*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Sections 7410(a)(2) and 7410(k).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Small business stationary source technical and environmental assistance program.

Dated: April 10, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart S–Kentucky

2. Section 52.920, is amended by adding paragraph (c)(71) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(71) The Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet submitted revisions to the Kentucky State Implementation Plan on January 15, 1993 These revisions address the requirements of section 507 of title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) Revision to the Kentucky State Implementation Plan to incorporate document titled ''Kentucky Small Business Stationary Source Technical Environmental Assistance Program'' which was approved by the Kentucky Natural Resources and Environmental Protection Cabinet effective on July 15, 1993.

(ii) Additional Material. None.

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[FR Doc. 95–14446 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[TX–37–1–6323a; FRL–5161–9]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Alternative Emission Control Plan For Shell Oil Company, Deer Park, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, the EPA is approving the alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex as a revision to the Texas State Implementation Plan (SIP). The bubble plan uses the emission reduction credit (ERC) from volatile organic compound (VOC) reductions at an analyzer vent in lieu of controlling VOC emissions from three vacuum vents. The bubble plan was reviewed for consistency with the EPA's Emissions Trading Policy Statement (ETPS) published in the **Federal Register** on December 4, 1986.

DATES: This action will become effective on August 18, 1995 unless adverse or critical comments are received by July 19, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Guy Donaldson, Acting Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

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

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

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Leila Yim Surratt or Mr. Herb Sherrow, Planning Section (6T–AP), Air Programs Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

On July 26, 1993, the Governor of Texas submitted a request to revise the Texas SIP to include an alternative emission reduction plan for the Shell Oil Manufacturing Complex located in Deer Park, Texas.

Due to VOC Reasonably Available Control Technology (RACT) fix-up changes required by the 1990 Clean Air Act (CAA), the Texas Air Control Board (TACB), which is now known as the Texas Natural Resource Conservation Commission, adopted revisions to its Regulation V on May 10, 1991, eliminating the exemption of sources with emissions of less than 100 pounds per day from RACT requirements. As a result of this action, Shell was required to install a 90 percent control technology on three vacuum vents. These vents emit a total of 36 pounds of VOC per year (0.018 tons per year (TPY)). The vast majority of the vent stream emissions are composed of steam and air. Instead of controlling emissions from these three vents, Shell proposed to use an emission reduction from an analyzer vent located at its Alkylation Plant. The analyzer vent reduction is not required by any State or Federal rule, regulation, permit condition, board order, or court order. 1.05 TPY of VOC emission reduction was achieved from the analyzer vent by physically limiting the maximum flow rate through the vent from 4.2 TPY of VOC to 3.15 TPY. The reduced flow was made permanent by replacing the metering valves and adding flow restrictors.

II. Applicable EPA Policies

On December 4, 1986 (51 FR 43814), the EPA issued the final ETPS, containing the criteria by which emissions trades will be evaluated. As indicated in the ETPS, it is the policy of the EPA to encourage emissions trades to achieve more flexible, rapid, and efficient attainment of the National Ambient Air Quality Standards. It describes emissions trading, sets out general principles that the EPA uses to evaluate emissions trades under the CAA, and expands opportunities for States and industry to use these less costly control approaches. A source may secure ERCs by meeting each of the applicable requirements of the final ETPS. Generally, only reductions which are surplus, enforceable, permanent, and quantifiable can qualify as ERCs. In addition, the ETPS lays out more stringent baseline and additional 20 percent emission reduction requirements if the trade occurs in a nonattainment area needing but lacking an approved attainment demonstration.

On April 7, 1994 (59 FR 16710), the EPA issued the final Economic Incentive Program (EIP) rule which sets forth general principles for a broad range of EIPs which States may pursue. Through the EIP rule, the Agency encourages the development of EIPs that will assist States in meeting air quality management goals through flexible approaches which allow for less costly control strategies, and which provide stronger incentives for the development and implementation of innovative emission reduction technology. In the preamble to the EIP rule (59 FR 16690), the EPA addresses the relationship between the EIP and the ETPS. The preamble clarifies that the provisions of the ETPS which apply to trading between existing sources represent one particular model for how States could design an EIP. Therefore, an application for an emissions trade or bubble that meets the requirements of the ETPS,

will be deemed to meet the requirements of the EIP.

Shell Oil Company's Deer Park Manufacturing bubble application was developed to meet the requirements of the ETPS. Therefore, the EPA has evaluated the emissions trade against the ETPS requirements.

III. Analysis

The following items are the basis for approval of the Texas SIP revision. Please refer to the EPA's Technical Support Document and the Texas SIP submittal for more detailed information.

A. Valid Emission Reduction Credits

As required by the ETPS, to be valid for trading purposes, an emission reduction must be surplus, enforceable, permanent, and quantifiable. The EPA believes the emission reduction from the analyzer vent meets these criteria.

First, the emission reduction from the analyzer vent is surplus. The analyzer vent is not subject to any State or Federal regulation. The emissions rate of 4.2 TPY is low enough to be exempt from the State's vent gas rule.

Second, the emission reduction was made enforceable through State Board Order number 93–11 which specifies the terms of the emissions trade.

Third, the emission reduction is permanent since the flow through the analyzer vent was physically reduced by changing the metering valves and adding flow restrictors.

Finally, the emission reduction is quantifiable. The annual emissions for the analyzer vent were from the 1991 Air Emissions Inventory Reportable Quantities based on information from historical flow settings. The annual emissions from the three vacuum vents were based on engineering estimates and measurements.

Because the emission reduction from the analyzer vent is surplus, enforceable, permanent, and quantifiable, the EPA believes that the emission reduction associated with this bubble is valid for use as an ERC.

B. More Stringent Baseline and 20 Percent Reduction Requirements

As discussed above, the ETPS also requires more stringent baselines and an additional 20 percent emission reduction if the trade occurs in a nonattainment area needing but lacking an approved attainment demonstration. This trade occurs in the Houston-Galveston severe ozone nonattainment area, which does not currently have an approved attainment demonstration which is required under section 182(c)(2)(A) of the CAA. This trade complies with the more stringent baseline and the 20 percent additional emission reduction requirements. As described more fully in the Technical Support Document, the 1.05 TPY emission reduction from the analyzer vent more than compensates for the 0.016 TPY emission reduction that was required from the three uncontrolled vacuum vents.

C. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. Public notice on the proposed Shell bubble was published in the Houston ozone nonattainment area in accordance with the State of Texas' public notice requirements. The State held a public hearing on the proposed regulations on March 9, 1993. The Shell bubble was adopted by the State on June 18, 1993, and was submitted through the Governor to the EPA on July 26, 1993, as a proposed revision to the SIP.

IV. Final Action

In this action, the EPA is approving the alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park Manufacturing Complex, which was adopted by the TACB on June 18, 1993, in Board Order 93–11, and submitted to the EPA by the Governor of Texas in a letter dated July 26, 1993.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this action will be effective August 18, 1995 unless, by July 19, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 18, 1995.

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

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

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 the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 1995. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

[1] Also Section 172(c)(7) of the CAA requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 9, 1995.

William B. Hathaway,

Acting Regional Administrator.

40 CFR part 52 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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(95) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(95) Alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex submitted to the EPA by the Governor of Texas in a letter dated July 26, 1993.

(i) Incorporation by reference.

(A) TACB Order 93–11, as adopted by the TACB on June 18, 1993.

(B) SIP narrative entitled, ''Site-Specific State Implementation Plan,'' section IV.H.1.b., attachment (4), entitled, ''Alternate Emission Reduction (''Bubble'') Plan Provisions for Uncontrolled Vacuum-Producing Vents, Shell Oil Company, Deer Park Manufacturing Complex, HG–0659–W,'' adopted by the TACB on June 18, 1993.

(ii) Additional material.

(A) SIP narrative entitled, ''Site-Specific State Implementation Plan,'' section IV.H.1.b., adopted by the TACB on June 18, 1993.

(B) TACB certification letter dated July 5, 1993, and signed by William R. Campbell, Executive Director, TACB.

[FR Doc. 95–14852 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH50–3–7070; FRL–5222–9]

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

AGENCY: United States Environmental Protection Agency.

ACTION: Final rule; withdrawal.

SUMMARY: On May 2, 1995, the United States Environmental Protection Agency (USEPA) published a proposed rule (60 FR 21490) and a direct final rule (60 FR 21456) approving a request by Ohio to redesignate the Toledo ozone nonattainment area to attainment of the National Ambient Air Quality Standard for ozone, and also approving the State's maintenance plan for this area. Because comments adverse to the rulemaking were received, USEPA is withdrawing the direct final rule. In a final rule. USEPA will summarize and respond to the comments received and announce final rulemaking action on the redesignation request and maintenance plan as revisions to Ohio's State Implementation Plan. The approval of the maintenance plan for the Toledo area was also included in the codification in a direct final rule concerning the redesignation and maintenance plan approval for the Dayton area, published on May 5, 1995, (60 FR 22289). That codification of the Toledo maintenance plan approval is also withdrawn.

EFFECTIVE DATE: June 19, 1995.

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

FOR FURTHER INFORMATION CONTACT: Angela Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 353–5142.

List of Subjects

40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: June 7, 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. The amendments to add § 52.1870(c)(105) and § 52.1885(b)(5), published on May 2, 1995, at 60 FR 21463, are withdrawn.

3. The amendment to revise § 52.1885(b)(5) published on May 5, 1995, at 60 FR 22295, is withdrawn.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

Authority: 42 U.S.C. 7401–7671q.

5. The amendment to revise the entry in the ozone table in § 81.336, published on May 2, 1995, at 60 FR 21463, is withdrawn.

[FR Doc. 95–14850 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 61, 704, 710, 712, 762, 763, 766, 790, 795, 796, 797, 798, and 799]

[OPPTS–00168; FRL–4955–2]

Chemical Substances; Deletion of Certain Chemical Regulations; Technical Amendments to the Code of Federal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing several provisions from the Code of Federal Regulations (CFR) that pertain to the Toxic Substances Control Act. These provisions are being removed from the CFR because they have no current legal effect. The removal of these provisions from the CFR and the technical changes that are being made are necessary to clarify the current status of the provisions for both the regulated

community and the public. EPA is also removing the text of two reporting forms, without making any substantive changes in the reporting requirements.

EFFECTIVE DATE: This final rule takes effect on June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995, to identify those rules that are obsolete, not in effect, unduly burdensome, or amenable to streamlining and simplification. The Office of Prevention, Pesticides and Toxic Substances has completed its initial page-by-page review of the CFR provisions within its purview--those issued under the Toxic Substances Control Act (TSCA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and certain sections of the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Federal Food, Drug and Cosmetic Act (FFDCA). Based on this initial review, EPA will be amending or eliminating several provisions in the CFR. This notice, which is one of several notices that are being issued at the same time, specifically involves the provisions associated with TSCA. Other notices, appearing elsewhere in this **Federal Register**, involve provisions associated with FFDCA and FIFRA.

The provisions that EPA is eliminating with this notice are not currently in effect because they have (1) expired by their own terms or by the terms of the statute, (2) become obsolete due to subsequent rulemakings, legislation, or policy decisions, or (3) because they have been otherwise identified as being unnecessary. Those provisions that are being amended with this notice reflect minor technical changes that are necessary as a result of the elimination of the provisions, are otherwise nonsubstantive corrections that are necessary, or involve the removal of the text of reporting forms without substantive changes to the reporting requirements.

The removal of these provisions from the CFR is not intended to affect the status of any civil or criminal actions that were initiated prior to June 19, 1995 or which may be initiated in the future to redress violations of the rules that occurred when the rules were still legally in effect.

II. Good Cause Exemption from Rulemaking Procedures

The Administrative Procedure Act (APA) generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Similarly, the APA generally requires at least 30 days after publication before a rule can become effective. 5 U.S.C. 553(d). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment or delayed effectiveness are unnecessary. 5 U.S.C. 553(b)(3)(B) and (d)(3).

EPA has determined that providing prior notice and opportunity for comment on these changes to the CFR is unnecessary. For the reasons discussed in Units I and III of this preamble, a number of the rules are no longer legally in effect; thus, withdrawing them from the CFR has no legal impact and merely codifies the current legal status of the rules. The associated technical amendments are merely to correct cross-references to the rules that are being removed and related reorganizations resulting from the removal of these regulations. In addition, other technical changes include the removal of the text of reporting forms, without making any substantive changes to the reporting requirements. For the same reasons, EPA believes there is good cause for making these changes to the CFR immediately effective. See 5 U.S.C. 553(d).

III. Regulations Being Eliminated

A. Part 704, Subparts C and D - Reporting and Recordkeeping Requirement; Comprehensive Assessment Information Rule (CAIR)

Part 704 specifies the reporting and recordkeeping procedures under section 8(a) of TSCA for manufacturers, importers, and processors of chemical substances and mixtures that are identified in subpart B or D of part 704. The reporting and recordkeeping provisions in subpart A of part 704apply throughout this part unless revised in any other subpart. Subpart C of part 704 sets out the general reporting provisions for the Comprehensive Assessment Information Rule (CAIR). CAIR was intended to standardize certain section 8(a) rules by: providing a set of uniform questions for EPA and other agencies to use in assembling specific reporting requirements; requiring the submission of information on a standard reporting form; and establishing uniform reporting and recordkeeping provisions that supplement the reporting and recordkeeping provisions in subpart A of part 704. CAIR provisions apply only to those persons who manufacture, import, or process a substance identified in subpart D of part 704 during the time period for which reporting is required. Subpart D of part 704 contains a matrix that identifies the substances for which EPA requires reporting under subpart C, the persons who must report the information to EPA, the information that must be reported, the coverage period (as that term is defined in § 704.203), and the effective date of the final rule.

After the first use of the CAIR in 1989, a lawsuit resulted in a stay of the effectiveness of this regulation until EPA promulgates amendments. Although amendments to this regulation were proposed in 1993, the amendments have not been finalized and EPA does not anticipate taking action for some time as it reassesses its TSCA information needs. Given the current inactive status of this regulation, EPA has decided to remove subparts C and D of part 704 from the CFR. The requirements of subpart C and D are not in effect and their presence in the CFR is confusing to the public and the regulated community. At the time EPA decides to promulgate amendments to CAIR, EPA will repromulgate subparts C and D, as appropriate.

B. Part 710 - Inventory Reporting Regulations; Compilation of the Inventory

This part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances subject to TSCA for commercial purposes. Subpart A of this regulation was issued pursuant to TSCA Section 8(b), which requires EPA to compile an inventory of chemical substances manufactured or processed for a commercial purpose. Following an initial reporting period, EPA was required to publish an initial inventory of chemical substances manufactured or imported for commercial purposes, with revised inventories published after supplemental reporting periods.

Subpart A mandated the reporting which was used to create the initial inventory. By the terms of the regulation itself, the initial reporting period closed in 1979, meriting the deletion of subpart A from the CFR. Nevertheless, some provisions of subpart A are referenced in the Inventory Update Rule of subpart B, and are extensively used in other TSCA regulatory contexts. For this

reason, only the provisions associated with the initial reporting period in subpart A are being removed. In addition, the headings for both subparts A and B are being removed so that part 710 no longer has any subpart designations. Cooresponding references are also being corrected where necessary.

C. Part 712, Subpart B - Chemical Information Rules; Manufacturers Reporting - Preliminary Assessment Information

This part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all reporting under this part. Subpart B covers manufacturers' and processors' reporting. Section 712.28 requires manufacturers and importers subject to this subpart to submit a single EPA Form No. 7710–35, ''Manufacturer's Report-Preliminary Assessment Information,'' for each plant site manufacturing or importing a chemical substance listed in § 712.30. The instructions and a facsimile of the form appear in § 712.28(d).

EPA is removing the instructions and facsimile of EPA Form No. 7710–35, entitled Manufacturer's Report-Preliminary Assessment Information from § 712.28(d). In addition, EPA is removing § 712.30(d)-(v) and each chemical listed in § 712.30(w) and (x) with a reporting date pre-1990. To accommodate these changes, EPA is also deleting the reference to subpart C which appears in the title for § 712.7; deleting the reference to subpart C in § 712.1(a) and § 712.7; is amending § 712.28(d) to delete and substitute language similar to § 704.216 with new mail code; and is redesignating § 712.30(w) and (x) as paragraphs (d) and (e), respectively.

D. Part 762 - Fully Halogenated Chlorofluoroalkanes

This part prohibits the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes for those aerosol propellant uses which are subject to TSCA, requires submission of annual reports, and lists the exemptions to the prohibitions. This prohibition has become obsolete because it has been superseded by a subsequent ban of CFC propellants under the Clean Air Act section 610 and implementing regulations at 40 CFR 82.64(c) and 82.66(d).

E. Part 763, Subpart D - Asbestos; Reporting Commercial and Industrial Uses of Asbestos

This rule required reporting by persons who manufacture, import, or process asbestos. Different reporting requirements were imposed depending on the person's activity. Manufacturers, importers and processors of commercial and industrial asbestos fiber were required to report quantity, use, and exposure information. Importers of mixtures and articles containing asbestos and processors of asbestos mixtures were required to report to EPA in two phases. They initially had to report limited information about processing or importation, and some were required to subsequently report additional information if they were selected as respondents in a sample survey.

This regulation includes a sunset provision at § 763.78, which specifies that all the requirements of this rule terminate 5 years after promulgation. Accordingly, this regulation sunsetted in 1987 and is now obsolete.

F. Part 763, Subpart E - Asbestos; Asbestos-Containing Materials in Schools (AHERA Rule)

At one of the OPPTS ''Regulatory Review Stakeholders' Meeting'' in April 1995, a commenter indicated that the OPPTS preliminary report missed two sections of the AHERA rule that have been superseded. Specifically, the commenter pointed out that 40 CFR 763.90(i)(4) gives the requirement for completion of a response action by TEM sampling. However, the rule allowed for a gradual phasing in of TEM and a phasing out of PCM in § 763.90(i)(6) and (7). As the commenter correctly noted, § 763.90(i)(6) and (7) have now expired, and are superseded by § 763.90(i)(4).

EPA is therefore removing § 763.90(i)(6) and (7), removing the citations to these sections which appear in § 763.90(i)(3), (4) and (8), and will redesignate § 763.90(i)(8) as § 763.90(i)(6).

G. Part 763, Subpart F - Asbestos; Friable Asbestos-Containing Materials in Schools

This rule requires local education agencies to identify friable asbestos-containing material in public and private schools by visually inspecting school buildings for friable materials, sampling such materials, and having samples analyzed by appropriate techniques referred to in the rule. In addition, the rule requires local education agencies to post a notice of the results of inspections and analyses. The rule requires local education agencies to provide warnings on the health effects of asbestos and instructions on methods to avoid or reduce exposure to school employees of any school with friable asbestos-containing material and to notify parent-teachers associations of the results of inspections. The rule also includes recordkeeping requirements.

This regulation was superseded by the 1987 Asbestos in School Rule at 40 CFR part 763, subpart E, which implemented the Asbestos Hazard Emergency Response Act (AHERA), and is therefore no longer in effect. However, appendix A to subpart F, which provides EPA's regulatory method for analysis of building materials samples for the presence of asbestos, is cited by the AHERA rule as well as the Asbestos National Emission Standards Hazardous Air Pollutants (NESHAP) rule in 40 CFR part 61, subpart M.As such, although the subpart is no longer in effect and may be eliminated, appendix A is still in use and must be retained. To retain appendix A, EPA is moving appendix A of subpart F to subpart E (the AHERA Rule), as a new appendix E. Corresponding changes are also being made for the citations to appendix A in both the AHERA and NESHAP rules.

H. Part 766 - Dibenzo-para-dioxins/ Dibenzofurans

This part identifies requirements for testing under TSCA section 4 to ascertain whether certain specified chemical substances may be contaminated with halogenated dibenzodioxins (HDDs)/dibenzofurans (HDFs) as defined in § 766.3, and requirements for reporting results under TSCA section 8. This regulation is still in effect, and EPA continues to receive a few reports each year. EPA is deleting the Dioxin/Furan Reporting form (EPA 7710–51) from 40 CFR 766.35(d). The form is easily available from EPA.

I. Parts 795 through 798 - TSCA Testing Guidelines

TSCA Section 4(b)(1) specifies that test rules shall include standards for the development of test data. Certain test guidelines, which become test standards when promulgated in individual section 4 test rules, are currently published in parts 795-798 of the CFR. Codification of these test guidelines alone does not impose any regulatory obligation. This final rule deletes from the CFR those test guidelines that are not currently cited as test standards in any test rules.

J. Part 799 - Chemical Specific Test Rules

Part 799 identifies the chemical substances, mixtures, and categories of substances and mixtures for which data are to be developed, specifies the persons required to test, specifies the test substances in each case, prescribes the tests that are to be conducted, including test standards, and provides deadlines for the submission of reports and data to EPA. For several of the substances subject to testing under part 799, EPA has determined that the testing reimbursement period (as defined under 40 CFR 790.3 and 791.3) has terminated (sunset). This final rule removes from the CFR test rules and testing consent order listings under part 799 on substances for which the testing reimbursement periods have sunset.

For a given test rule, the reimbursement period is defined in TSCA section 4 and the associated regulations as the later of (1) the date 5 years after the date the data are submitted in accordance with the rule and (2) the period that begins on the date the data are submitted and equal to the time period that EPA determines was necessary to develop such data. Generally, the reimbursement period is 5 years from the date of submission of the data because EPA has not required any tests that take more than 5 years to develop data from the time data development begins. For all the test rules affected by today's action, EPA has determined that the period required for developing the data is less than or equal to 5 years (by using the dates for submission of data contained in the rules); thus the reimbursement period ends 5 years after submission of the data. For all of the rules being deleted today, over 5 years have passed since the last test data were submitted under that rule.

Section 4 test rules trigger export notification under TSCA section 12(b) (see 40 CFR part 707, subpart D). The period during which the export notification requirements apply for a particular chemical substance or mixture subject to a section 4 test rule ends when the reimbursement period ends. Thus, the obligation to submit section 12(b) export notices for the substances and mixtures subject to the test rules being deleted today has also terminated.

Additionally, this rule adds § 799.18; this new section lists in a table, substances and mixtures that are the subjects of test rules and/or consent orders for which the testing reimbursement period has sunset. ''Sunset date,'' as the term is used in the table at § 799.18, identifies the end of (1) the period during which TSCA section 4 test rule reporting requirements apply under the particular test rule (e.g., submission of exemption requests, notices of intent to conduct testing), and (2) the reimbursement period during which certain persons are subject to an obligation to reimburse test sponsors for their share of the costs (calculated using market share and other bases during the reimbursement period) associated with testing these chemicals (see 40 CFR part 791).

EPA intends to update the table at § 799.18 on a periodic basis.

IV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS–00168. A public version of the record, without any confidential business information is available in the TSCA Public Docket Office from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NEB–607, 401 M St., SW., Washington, DC.

V. Analyses under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act and the Paperwork Reduction Act

Because the withdrawal of these rules from the CFR merely reflects their current legal status, this action is not a ''significant'' regulatory action within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), and does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reasons, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action would not have a significant economic impact on a substantial number of small entities. In addition, because these rules are not currently in effect or are being eliminated, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act, 44 U.S.C. 3501.

List of Subjects in 40 CFR Parts 61, 704, 710, and 762, 763, 766, 795, 796, 797, 798 and 799

Administrative practice and procedure, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Chemicals, Confidential business information, Dibenzo-para-dioxins, Dibenzofurans, Environmental protection, Fully halogenated chlorofluoroalkanes, Hazardous substances, Health, imports, Intergovernmental relations, Labeling, Laboratories, Mercury, Occupational safety and health, Radionuclides, Radon, Reporting and recordkeeping requirements, School, Vinyl chloride.

Dated: June 14, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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

1. In part 61:

PART 61—[AMENDED]

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

Authority: Secs. 101, 112, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

§ 61.141 [Amended]

b. Section 61.141 is amended by replacing ''appendix A, subpart F,'' with ''appendix E, subpart E,'' in each of the following five definitions: ''Category I non-friable asbestos- containing material (ACM);'' ''Category II nonfriable ACM''; ''Friable asbestos material''; ''Nonfriable asbestos-containing material''; and ''Resilient floor covering''.

§ 61.146 [Amended]

c. In § 61.146, paragraphs (a) and b are amended by replacing ''appendix A, subpart F,'' with ''appendix E, subpart E,''.

§ 61.156 [Amended]

d. In § 61.156, Table 1 is amended by replacing in the ''CFR citation'' column ''40 CFR 763, Subpart E, F'' with ''40 CFR part 763, subpart E''.

Appendix A to Subpart M [Amended]

e. In subpart M, appendix A, section I.1.1. is amended by replacing ''appendix A, subpart F,'' with ''appendix E, subpart E,''.

2. In part 704:

PART 704—[AMENDED]

a. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 704.1 [Amended]

b. Section 704.1 is amended in paragraph (a), in the first sentence, by removing the words ''or D,'' and by removing paragraphs (c) and (d).

§ 704.104 [Amended]

c. Section 704.104(c)(3) is amended by removing the phrase '', as required by § 712.30(d) of this chapter.''

Subparts C and D [Removed]

d. Subparts C and D, consisting of § 704.200 through 704.225 are removed.

3. In part 710:

PART 710—[AMENDED]

a. The authority citation for part 710 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

Subparts A and B Headings [Removed]

b. By removing the subpart A and B headings.

c. In § 710.1, by revising paragraphs (a) and (c) to read as follows:

§ 710.1 Scope and compliance.

(a) This part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances for commercial purposes under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607(a)). Section 8(a) authorizes the Administrator to require reporting of information necessary for administration of the Act and requires EPA to issue regulations for the purpose of compiling an inventory of chemical substances manufactured or processed for a commercial purpose, as required by section 8(b) of the Act. Following an initial reporting period, EPA published an initial inventory of chemical substances manufactured, processed or imported for commercial purposes. In accordance with section 8(b), EPA periodically amends the inventory to include new chemical substances which are manufactured or imported for a commercial purpose and reported under section 5(a)(1) of the Act. EPA also revises the categories of chemical substances and makes other amendments as appropriate.

* * * * *

(c) Each person who reports under these regulations shall maintain records that document information reported under these regulations and, in accordance with the Act, permit access to, and the copying of, such records by EPA officials.

d. In § 710.2 by revising the introductory text to read as follows:

§ 710.2 Definitions.

In addition to the definitions in § 704.3 of this chapter, the following definitions also apply to this part:

* * * * *

§ 710.3, 710.5, through 710.8 [Removed]

e. By removing § 710.3, and 710.5 through 710.8 .

§ 710.23 [Redesignated and Removed]

f. In § 710.23, by redesignating paragraphs (a), (b), and (c) as § 710.2 (dd), (ee), and (ff), respectively, and by removing the remainder of § 710.23.

§ 710.32 [Amended]

g. In § 710.32 introductory text, change the phrase ''this subpart'' to read ''this part''.

§ 710.35 [Amended]

h. In § 710.35 change the phrase ''this subpart'' to read ''this part'', each time the phrase appears.

§ 710.37 [Amended]

i. In § 710.37, in the first sentence, change the phrase ''this subpart'' to read ''this part''.

§ 710.38 [Amended]

j. In § 710.38 (a), (b), (c)(1)(i), and (d), change the phrase ''this subpart'' to read ''this part'', each time the phrase appears.

4. In part 712:

PART 712—[AMENDED]

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 712.1 [Amended]

b. In § 712.1(a) by revising the phrase ''Subparts B and C, respectively, cover'' to read ''Subpart B covers''.

§ 712.7 [Amended]

c. In § 712.7, the first sentence, by revising the phrase ''Subparts B and C'' to read ''subpart B''.

d. In § 712.28, paragraph (d) is revised to read as follows:

§ 712.28 Form and instructions.

* * * * *

(d) Form 7710–35,Manufacturer's Report--Preliminary Assessment Information or PAIR form and instructions may be obtained by telephoning or writing the Environmental Assistance Division. The telephone number and the address of the Environmental Assistance Division is: Phone Number (202) 554–1404, TDD (202) 554–0551. Address: Environmental Assistance Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

e. Section 712.30 is amended in paragraph (c) by changing the parenthetical ''(TS-790), Rm. L-100,'' to read ''(7409)'', by removing paragraphs (d) through (v), by redesignating paragraphs (w) and (x) as paragraphs (d) and (e) and revising newly designated paragraph (d) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(d) Manufacturers and importers of the substances listed below must submit a Preliminary Assessment Information Manufacturer's Report for each site at which they manufacture or import each substance by the reporting date shown in the table below. The substances are listed in Chemical Abstracts Service Registry Number order. Typically EPA lists the trivial or common name first, then, following the symbol ''- -'', EPA lists the substance by its TSCA Chemical Substance Inventory name. Whenever EPA lists a single name, the name may be either the TSCA Chemical Substance Inventory name, a trivial name, or a common name. Generally, when a single name is listed, it is the TSCA Chemical Substances Inventory name.

CAS No.	Substance	Effective date	Reporting date
90-30-2	N-Phenyl-1-naphthylamine	9/30/91	11/27/91
100-40-3	4-Vinylcyclohexene	1/11/90	3/12/90
108-95-5	Thiophenol	1/26/94	3/28/94
118-79-6	2,4,6-tribromophenol	1/11/90	3/12/90
143-33-9	Sodium cyanide	10/29/90	12/27/90
632-79-1	Tetrabromophthalic anhydride	1/11/90	3/12/90
637-92-3	Ethyl tert-butyl ether	12/28/94	2/27/95
994-05-8	Tert-amyl methyl ether	12/28/94	2/27/95
1163-19-5	Decabromodiphenyl ether	1/11/90	3/12/90
3194-55-6	Hexabromocyclododecane	1/11/90	3/12/90
3296-90-0	Dibromoneopentyl glycol	1/11/90	3/12/90

CAS No.	Substance	Effective date	Reporting date
12185-10-3	White phosphorus	1/26/94	3/28/94
32534-81-9	Pentabromodiphenyl ether	1/11/90	3/12/90
32536-52-0	Octabromodiphenyl ether	1/11/90	3/12/90
32588-76-4	Ethylene Bis-(tetrabromophthalimide)	1/11/90	3/12/90
37853-59-1	1,2-Bis(tribromophenoxy) ethane	1/11/90	3/12/90
41291-34-3	Ethylene(5,6-dibromonorbornane-2,3-dicarboximide)	1/11/90	3/12/90
52907-07-0	Ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide)	1/26/94	3/28/94
57137-10-7	Tribrominated polystyrene	1/11/90	3/12/90
61262-53-1	Ethylene bis(pentabromophenoxide)	1/11/90	3/12/90

* * * * *

PART 762—[REMOVED]

5. By removing part 762.

6. In part 763:

PART 763—[AMENDED]

a.The authority citation for part 763 is revised to read as follows:

Authority: 15 U.S.C. 2605, 2607(c), 2643, and 2646

Subpart D [Removed and Reserved]

b. By removing and reserving subpart D, consisting of § 763.60 through 763.78.

§ 763.87 [Amended]

c. Section 763.87(b) is amended by changing the phrase ''Appendix A to subpart F in 40 CFR Part 763,'' to read ''appendix E to subpart E of this part.''

§ 763.90 [Amended]

d. Section 763.90 is amended, in paragraph (i)(3) by changing the phrase ''paragraphs (i)(4), (5), (6), or (7) '' to read ''paragraphs (i)(4), and (i)(5),'' in paragraph (i)(4), last sentence, by changing the phrase ''paragraph (i)(3), (5), (6), or (7),'' to read ''paragraph (i)(3) or (i)(5),'' by removing paragraphs (i)(6) and (i)(7), by redesignating paragraph (i)(8) as paragraph (i)(6), and by changing the phrase ''paragraphs (i)(5), (6), and (7),'' to read ''paragraph (i)(5),'' each time this phrase appears.

Subpart E, Appendix C [Amended]

e. In Subpart E, Appendix C, section I.B.3.(l) ''Regulatory review,'' revise the phrase ''the Friable Asbestos in Schools Rule (40 CFR Part 763, Subpart F)'' to read ''the Asbestos-Containing Materials in Schools Rule (40 CFR Part 763, Subpart E)''.

Appendix A to Subpart F [Redesignated]

f. In subpart F, by redesignating ''Appendix A to Subpart F'' as ''Appendix E to Subpart E.''

Subpart F [Removed and Reserved]

g. By removing the remainder of subpart F to part 763, consisting of § 763.100 through 763.119 and by reserving the subpart F designation.

7. In part 766:

PART 766—[AMENDED]

a. The authority citation for part 766 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

§ 766.7 [Amended]

b. In § 766.7, by changing ''Document Control Office (TS- 790), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460'' to read ''Document Control Office, (7407), Information Management Division, Office of Polution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 , ATTN: Dioxin/Furan Report.

§ 766.12 [Amended]

c. In § 766.12, by changing ''(TS-799)'' to ''(7408)'', removing ''(800–424–9065)'' and ''OPPTS,'' by changing ''NE-G004'' to ''NEB-607'', and by changing ''8 a.m.''to ''12 noon''.

d. In § 766.35, by revising paragraph (c)(1)(i), in paragraph (c)(2), the first sentence, by changing ''EPA Form 7910–51 (appearing in § 766.35(d)'' to ''EPA Form 7710–51'', and by removing and reserving paragraph (d), to read as follows

§ 766.35 Reporting requirements.

* * * * *

(c) * * *

(1)

(i) A completed form (EPA 7710-51) for that chemical substance. The form and instructions are available from the Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. One form must be submitted for each chemical substance for which a positive test result has been submitted.

* * * * *

§ 766.38 [Amended]

e. In § 766.38(c), by changing ''Part II of form EPA 7910-51 (appearing at § 766.35(d)) for each chemical product. A separate form EPA 7910-51 must'' to ''Part II of EPA Form 7710-51 for each chemical product. A separate EPA Form 7710-51 must'', and by removing the parenthetical text at the end of the section.

8. In part 790:

PART 790—[AMENDED]

a. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 790.5 [Amended]

b. Section 790.5(a) is amended by removing the phrase ''e.g., § 799.4400 1,1,1-Trichloroethane,''.

9. In part 795:

PART 795—[AMENDED]

a. The authority citation for part 795 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 795.45, 795.54, 795.223, 795.230, 795.235, 795.260, 795.285 [Removed]

b. By removing §§ 795.45, 795.54, 795.223, 795.230, 795.235, 795.260, 795.285.

10. In part 796:

PART 796—[AMENDED]

a. The authority citation for part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 796.1220, 796.1370, 796.1520, 796.1550, 796.1570, 796.1720, 796.1840, 796.1860, 796.2700, 796.3140, 796.3180, 796.3200, 796.3220, 796.3240, 796.3260, 796.3300, 796.3340, 796.3360, 796.3400, 796.3480, 796.3700, 796.3780, and 796.3800 [Removed]

b. By removing §§ 796.1220, 796.1370, 796.1520, 796.1550, 796.1570, 796.1720, 796.1840, 796.1860, 796.2700, 796.3140, 796.3180, 796.3200, 796.3220, 796.3240, 796.3260, 796.3300, 796.3340, 796.3360, 796.3400, 796.3480, 796.3700, 796.3780, and 796.3800.

11. In part 797:

PART 797—[AMENDED]

a. The authority citation for part 797 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 797.1060, 797.1075, 797.1160, 797.1350, 797.1440, 797.1520, 797.1560, 797.1800, 797.1830, and 797.1970 [Removed]

b. By removing §§ 797.1060, 797.1075, 797.1160, 797.1350, 797.1440, 797.1520, 797.1560, 797.1800, 797.1830, and 797.1970.

Subpart C [Removed]

c. By removing subpart C, consisting of §§ 797.2050, 797.2130, 797.2150, 797.2175, 797.2750, 797.2800, and 797.2850.

12. In part 798:

PART 798—[AMENDED]

a. The authority citation for part 798 continues to read as follows:

Authority: 15 U.S.C. 2603.

Subpart B [Removed and Reserved]

b. By removing subpart B, consisting of §§ 798.1100, 798.1150, and 798.1175 and designating subpart B as reserved.

§§ 798.2675, 798.4420, 798.4470, 798.4500, 798.5100, 798.5140, 798.5250, 798.5550, 798.5575, 798.5900, 798.5915, 798.6450, 798.6540, and 798.6850 [Removed]

c. By removing §§ 798.2675, 798.4420, 798.4470, 798.4500, 798.5100, 798.5140, 798.5250, 798.5550, 798.5575, 798.5900, 798.5915, 798.6450, 798.6540, and 798.6850.

Subpart H [Removed]

d. By removing subpart H, consisting of § 798.7100.

13. In part 799:

PART 799—[AMENDED]

a. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b.Section 799.5 is amended by removing the parenthetical text ''(e.g. § 799.4400 for 1,1,1-Trichloroethane)''.

c. Section 799.18 is added to subpart A to read as follows:

§ 799.18 Chemicals subject of test rules or consent orders for which the testing reimbursement period has passed.

The following table lists substances and mixtures that have been the subjects of section 4 testing actions and for which the testing reimbursement period has terminated (sunset). The **Federal Register** citation in the table is for the final rule/consent order that includes the particular substance for which the sunset date listed in the table below applies. Section 12(b) export notification is no longer required for these substances and mixtures. Substances that are the subjects of two or more section 4 testing actions may have section 4 reimbursement or section 12(b) export notification requirements that have not sunset; see subparts B, C, and D of this part to determine if certain other section 4 testing requirements apply. Additionally, section 12(b) export notification may also be triggered by proposed or final action under TSCA section 5, 6, or 7 (in addition to final actions under section 4); see 40 CFR part 707, subpart D for further information regarding the TSCA section 12(b) export notification requirements.

CAS No.	Chemical Name	FR cite	Sunset dates
	C-9 Aromatic Hydrocarbon Fraction[1]	50 FR 20662, 5/17/85	Aug 13, 1994
62–53–3	Aniline	53 FR 31804, 8/19/88	July 27, 1994
71–55–6	1,1,1-Trichloroethane	49 FR 39810, 10/10/84	June 29, 1992
75–56–9	Propylene oxide	50 FR 48762, 11/27/85	Dec,21, 1992
78–87–5	1,2-Dichloropropane	52 FR 37138, 10/5/87	April 17, 1995
79–94–7	Tetrabromobisphenol-A	52 FR 25219, 7/6/87	Aug 24, 1994
80–05–7	Bisphenol A	51 FR 33047, 9/18/86	April 6, 1993
84–65–1	Anthraquinone	52 FR 21018, 6/4/87	Aug 21,1994
87–61–6	1,2,3-trichlorobenzene	51 FR 11728,4/7/86	Nov 13, 1993
88–74–4	2-nitroaniline	53 FR 31804, 8/19/88	Sept 19, 1994
92–52–4	1,1-Biphenyl	50 FR 37182, 9/12/85	March 15,1994
95–48–7	Ortho-cresols AKA 2-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
95–50–1	1,2-dichlorobenzene	51 FR 24657, 7/8/86	April 27, 1994
95–51–2	2-chloroaniline	53 FR 31804, 8/19/88	Sept 6, 1994
95–76–1	3,4-dichloroaniline	53 FR 31804, 8/19/88	Oct 2, 1994
95–94–3	1,2,4,5-tetrachlorobenzene	51 FR 24657,7/8/86	April 27, 1994
97–02–9	2,4-dinitroaniline	53 FR 31804, 8/19/88	Oct 19, 1993
98–82–8	Cumene	53 FR 28195, 7/27/88	March 11, 1995
99–30–9	2,6-dichloro-4-nitroaniline	53 FR 31804, 8/19/88	Aug 6, 1994
100–01–6	4-nitroaniline	53 FR 31804, 8/19/88	Sept 19, 1994
106–44–5	Para-cresols AKA 4-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
106–46–7	1,4-dichlorobenzene	51 FR 24657, 7/8/86	Jan 22, 1994
106–47–8	4-chloroaniline	53 FR 31804, 8/19/88	Oct 19, 1993
108–39–4	Meta-cresols AKA 3-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
108–90–7	Monochlorobenzene	51 FR 24657, 7/8/86	Nov 13, 1991
112–90–3	Oleylamine	52 FR 31962, 8/24/87	Nov 28, 1994
116–14–3	Tetrafluoroethene	52 FR 21516, 6/8/87	May 19, 1993

CAS No.	Chemical Name	FR cite	Sunset dates
116–15–4	Hexafluoropropene	52 FR 21516, 6/8/87	Jan 22, 1994
123–31–9	Hydroquinone	50 FR 53145, 12/30/85	Dec. 11, 1994
149–57–5	2-Ethylhexanoic Acid	51 FR 40318, 11/6/86	June 19, 1993
328–84–7	3,4-Dichlorobenzotrifluoride	52 FR 23547, 6/23/87	Dec. 5, 1993
25550–98–5	Diisodecyl Phenyl Phosphite	54 FR 8112, 2/24/89	May 21, 1995

[1] Only substances obtained from the reforming of crude petroleum.

§§ 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1054, 799.1250, 799.1285, 799.1550, 799.1650, 799.2175, 799.2200, 799.3175, 799.3450, 799.4000, 799.4400 [Removed]

d. Sections 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1054, 799.1250, 799.1285, 799.1550, 799.1650, 799.2175, 799.2200, 799.3175, 799.3450, 799.4000, and 799.4400 are removed.

§ 799.5000 [Amended]

e. Section 799.5000 is amended by removing from the table the complete entries for the following substances and/or mixtures: Aniline, 2-nitroaniline, 2-chloroaniline, 3,4-dichloroaniline, 2,4-dinitroaniline, 2,6-dicloro-4-nitroaniline, 4-nitroaniline, 4-chloroaniline, 3,4-dichlorobenzotrifluoride, and diisodecyl phenyl phosphite.

[FR Doc. 95–14910 Filed 6–16–95; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87–266; FCC 95–203]

Cross-Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has voted to adopt the tentative conclusion regarding the Commission's legal authority to grant waivers to telephone companies allowing them to provide video programming directly to subscribers in their telephone service areas. For ''good cause'' the Commission may waive Section 613(b) of the Communications Act, the cable-telco cross-ownership restriction, where a waiver is ''justified by the particular circumstances.'' In response to the decisions of the Fourth and Ninth Circuits which found Section 613(b) unconstitutional on First Amendment grounds, the Commission concluded that under Section 613(b)(4), the waiver provision, it has the legal authority to grant waivers to allow telephone companies to provide video programming in their telephone service areas on video dialtone networks. The Commission further concluded that waiving the restriction in that manner is fully consistent with the language of the statute and Section 613(b)'s underlying policy, and obviates the constitutional infirmities identified by the court of appeals. This order is intended to provide guidance to the public regarding the Commission's legal authority to grant waivers of the cable-telco cross-ownership rule to telephone companies seeking to provide video programming directly to subscribers in their telephone service areas.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Aliza Katz, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION: A summary of the Commission's *Third Report and Order* (TR&O), adopted May 16, 1995 and released May 16, 1995, is set forth below. The full text of this document is available for inspection and copying during normal business hours in the Administrative Law Division, Office of General Counsel (Room 616), 1919 M Street NW., Washington, DC. The full text may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Third Report and Order

Introduction. In this *Third Report and Order,* we adopt the tentative conclusion set forth in the *Fourth Further Notice of Proposed Rulemaking* (''*Fourth FNPRM*''), 60 FR 8996, February 16, 1995, in the above captioned docket regarding the Commission's legal authority to waive Section 613(b) of the Communications Act, 47 U.S.C. § 533(b). Section 613(b) generally prohibits telephone companies from providing ''video programming directly to subscribers in the[ir] telephone service area.'' However, the statute expressly authorizes us to waive the restriction for ''good cause.'' We conclude that Section 613(b)(4) authorizes us to grant waivers to allow telephone companies to provide video programming directly to subscribers in their telephone service areas under certain conditions. In particular, in response to decisions of the Fourth and Ninth Circuits, we conclude that under Section 613(b)(4) we have the legal authority to grant waivers allowing telephone companies to provide video programming in their telephone service areas on video dialtone networks. We adopt that construction of the waiver provision because it is fully consistent with the language of the statute and Section 613(b)'s underlying policy, and because waiving the restriction in that manner obviates the constitutional infirmities identified by the courts of appeals.

2. *Background and Summary.* Section 613(b), the ''cable-telco cross-ownership rule,'' prohibits a telephone company from operating a cable system where it has a monopoly on local telephone service. Although Section 613(b) does *not* bar a telephone company from acting as a conduit to carry video programming selected and provided by an unaffiliated party, it *does* generally bar a telephone company from selecting (or ''exerting editorial control over'') and providing the video programming carried over its wires in its local service area. Two counts of appeals, the Fourth and Ninth Circuits, have recently held Section 613(b) unconstitutional because it prohibits telephone companies from choosing the video programming to be provided in their local exchange telephone service areas *altogether. See US West, Inc.* v. *United States,* 48 F.3d 1092 (9th Cir. 1995) (US West); *Chesapeake and Potomac Tel. Co.* v. *United States,* 42 F.3d 181 (4th Cir. 1994) (*C&P*). In so holding, both courts referred to the Commission's 1992 recommendation to Congress is our video dialtone docket, a proposal that the Ninth Circuit described in *US West* as a ''more speech-friendly plan'' than the absolute ban contained in the statute. Under the Commission's legislative recommendations, as described by the Fourth Circuit in *C&P,* ''telephone companies' editorial control

over video programming [would be limited] to a fixed percentage of the channels available; the telephone companies would be required to lease the balance of the channels on a common carrier basis to various video programmers.'' In short, the courts of appeals have held that a complete ban on editorial control over video programming in a telephone company's service area ''burden[s] substantially more speech than is necessary,'' especially since there appeared to be an ''obvious less-burdensome alternative[]''—allowing the telephone company to provide some video programming in their telephone service areas on a video dialtone system.

3. We now conclude, as we previously proposed in the *Fourth NPRM,* that we have the authority to grant waivers to telephone companies pursuant to Section 613(b)(4) allowing them to provide video programming directly to subscribers in their telephone service areas over video dialtone networks. Section 613(b)(4) provides that upon a showing of ''good cause'' the Commission may waive the cable-telco cross-ownership restriction where a waiver is ''justified by the particular circumstances * * *, taking into account the policy'' underlying the cross-ownership restriction.

4. Construing the waiver provision to authorize telephone companies to provide video programming over video dialtone networks avoids the constitutional infirmity identified by the Fourth and Ninth Circuits by making available the '' 'obvious less-burdensome alternative' '' referenced by those courts. Moreover, it is our duty to so construe the statute. The Supreme Court has recently reiterated in *United States* v. *X-Citement Video, Inc.,* 115 S. Ct. 464, 467 (1964), that ''a statute is to be construed where fairly possible so as to avoid substantial constitutional questions.'' [1]

5. In light of the ongoing litigation concerning the constitutionality of Section 613(b), we have decided to adopt the construction of Section 613(b)(4) that we proposed in the *Fourth FNPRM* before answering the other questions presented in this rulemaking.

6. *Discussion.* In the *Fourth FNPRM,* we asked for comment on the terms and conditions under which local telephone companies should be permitted to provide video programming directly to subscribers in their local service areas. For instance, we asked whether we should permit them to do so over video dialtone systems. While we construe Section 613(b)(4), the waiver provision, as authorizing us to permit telephone companies to act as programmers on video dialtone systems pursuant to certain conditions, the remaining issues raised in the *Fourth FNPRM* will be resolved in a further order in this proceeding.

7. Two statutory issues are presented in construing Section 613(b)(4): (1) whether ''good cause'' exists to waive the statutory restriction to permit a telephone company that wants to provide programming in its service area to do so over a video dialtone system, and (2) whether ''the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection,'' when a telephone company requests waiver of Section 613(b) to provide video programming over a video dialtone system.

8. As the D.C. Circuit recognized in its 1990 *NCTA* v. *FCC* decision, ''the policy [of Section 613(b)] is to promote competition.'' When the Commission adopted its cable-telco cross-ownership rules in 1970, it sought to prevent the telephone companies from using their monopoly position to preempt the market for cable service by excluding others from entry. Since 1970, however, the cable industry has grown from a fledgling service to a more mature industry that now serves a majority of households and Congress's interest in ensuring that the cable industry not be extinguished before it is established is no longer relevant. ''Good cause'' is a phrase that is commonly associated with changed circumstances. The relevant circumstances have changed greatly since the Commission adopted its cross-ownership rules in 1970 and Congress ''modeled [Section 613(b)] after the FCC['s] rules'' in 1984.

9. We also conclude that significant advances in technology have changed the circumstances relevant to determining whether telephone companies should be permitted to provide video programming directly to subscribers in their service areas. These developments have made it possible for a multitude of programmers to reach end user customers and have mitigated to a fair degree the competitive concerns that led the Commission and Congress to adopt the cross-ownership ban. These technological developments also support the conclusion that ''good cause'' exists to authorize telephone companies to provide video programming within their service areas where that will promote competition in the multichannel video programming market.

10. We also conclude that the rules we will promulgate in the immediate future to authorize telephone companies to provide video programming in their service areas will constitute ''particular circumstances * * *, taking into account the policy'' of Section 613(b). While we have not yet adopted definitive rules governing the conditions under which telephone companies may be permitted to act as video programmers over their video dialtone systems, the outline of two of those requirements is clear. First, video dialtone necessarily includes a common carriage element, and we have previously concluded that a telephone company may not allocate all or substantially all of its capacity to a single ''anchor programmer.'' Second, our current video dialtone rules contain provisions intended to ensure that telephone companies providing video programming directly to subscribers do not discriminate in favor of their affiliated programmers and do not subsidize video programming operations with rates collected from their provision of monopoly telephone services. These restrictions are intended to promote the underlying purpose of Section 613(b) by fostering fair competition in the multi-channel video programming market.[2]

11. Construing the waiver provision to authorize telephone companies to provide video programming pursuant to our video dialtone rules obviates the constitutional difficulties associated with Section 613(b). Specifically, the Fourth Circuit and Ninth Circuit have held that the cable-telco cross-ownership restriction ''burden[s] substantially more speech than is necessary'' to promote the government's interest in promoting a competitive multi-channel video programming market. Waiving Section 613(b), however, constitutes implementation of the ''obvious less burdensome alternative'' to the ban identified by the

[1] While the courts have identified video dialtone as a possible means by which telephone companies could provide programming in their service areas to remedy the constitutional infirmities of Section 613(b), and while we agree with the suggestion of these courts that waiving Section 613(b) as discussed above will cure these constitutional infirmities, we will address the terms and conditions under which telephone companies should be permitted to provide video programming directly to subscribers in their local service areas in a subsequent order addressing the other issues raised in the *Fourth FNPRM.*

[2] It is possible that we will decide in the ongoing rulemaking proceeding that telephone companies ought to be permitted to provide traditional cable service, rather than participate as programmers on video dialtone systems, under ''particular circumstances'' that will promote competition in the multichannel video programming market.

Fourth Circuit.[3] Or, to quote the Ninth Circuit, it implements the ''more speech-friendly plan that allows telephone companies ''to compete in the video programming market'' while ''requiring that a portion of their transport volume be set aside for sale to unaffiliated third parties on a common carrier basis.'' As a result of our construction of the waiver provision, telephone companies' free speech interests are not unduly burdened.

12. The fact that waiver of the cable-telco cross-ownership restriction obviates the constitutional difficulties identified by the courts of appeals supports our decision to construe our waiver authority to permit telephone companies to provide video programming over video dialtone systems. As the Supreme Court recently reiterated in *X–Citement Video,* ''a statute is to be construed where fairly possible so as to avoid constitutional questions,'' The Court also articulated this principle in *Jean* v. *Nelson,* 472 U.S. 846 (1985), when it found that ''[p]rior to reaching any constitutional questions federal courts must consider nonconstitutional grounds for decision.''

13. Several commenters opposed our reading of the wavier provision. Southwestern Bell argued that our proposal constitutes an evisceration of the rule. That is not so. It would eviscerate the statute if we were to waive Section 613(b) to allow telephone companies to provide video programming directly to subscribers in their service areas over video dialtone facilities *and*, as a general matter, to purchase cable systems in their telephone service areas that do not face competition. But we are not authorizing such waivers in this order. Instead, we conclude only that Section 613(b)(4) authorizes us to waive the cable-telco cross-ownership rule to permit a telephone company to provide video programming over video dialtone systems in its telephone service area in competition with existing cable operators, a result that *furthers* the purpose of the rule.[4]

14. Both the United States Telephone Association and US West invoke *Secretary of State of Maryland* v. *Munson,* 467 U.S. 947 (1984), to argue that the statute cannot be saved by its waiver provision. But this case is not at all similar to *Munson.* The *Munson* case involved a 25% limitation on the percentage of funds a charitable organization could keep, on the theory that a charity that used less than 75% of the funds that it raised on charitable purposes was engaged in fraud. The Court invalidated the state statute imposing the limitation upon concluding that ''[t]he flaw in the statute is not simply that it includes within its sweep some impermissible applications, but that in all its applications it operates on the fundamentally mistaken premise that high solicitation costs are an accurate measure of fraud.'' Moreover, the Court concluded that the statute stifled speech and discriminated against certain viewpoints, explaining that ''the statute will restrict First Amendment activity that results in high costs but is itself a part of the charity's goal or that is simply attributable to the fact that the charity's cause proves to be unpopular.'' The Court went on to hold that the statute was not saved by a provision allowing for waivers of the limitation. The Court stated that ''[b]y placing discretion in the hands of an official to grant or deny a license, such a statute creates a threat of censorship that by its very existence chills free speech.'' ''Particularly where the percentage limitation is so poorly suited to accomplishing the State's goal,'' the Court added, ''and where there are alternative means to serve the same purpose, there is little justification for straining to salvage the statute by invoking the possibility of official dispensation to engage in protected activity.'' In this case, in contrast, permitting telephone companies to provide video programming over a video dailtone system plainly advances the goal of making programming for a variety of sources available to the public—a goal that furthers rather than hinders First Amendment interests. Unlike *Munson,* speech is not stifled and unpopular viewpoints are not disadvantaged. Moreover, no discretion remotely comparable to that in *Munson* would be lodged in any official to grant or deny particular waivers under our approach. Rather, as part of any decision under 47 U.S.C. § 214 authorizing a telephone company to construct facilities, we will routinely grant a waiver of Section 613(b) where the telephone company agrees to abide by the regulations we will establish governing its provision of video programming. Accordingly, there is no ''threat of censorship that by its very existence chills free speech.''

15. In light of our duty to interpret Section 613(b) in a fashion that renders the statute constitutional, there is no merit at all to the suggestion by some commenters that the Commission's interpretation of Section 613(b)(4) is barred by res judicata, collateral estoppel, or some unnamed principle that allegedly prevents the Commission from construing a statute that a court has held unconstitutional. In *X-Citement Video,* the Supreme Court read the federal child pornography statute in a manner that the Court acknowledged was not its ''most natural grammatical reading'' in order to avoid a serious constitutional issue after a court of appeals had held the statute unconstitutional. In particular, the Court held that the statute required the government to prove that the defendant in a child pornography case knew that the material on which the prosecution was based contained child pornography even though the statute did not appear to contain such a scienter requirement. In this case, in contrast, the language of the waiver provision is flexible, speaking of ''good cause'' and ''particular circumstances * * *, taking into account the policy of this subsection.'' Unlike the Court in *X-Citement Video,* we do not have to strain to construe the waiver provision so that it renders the statute constitutional. Rather, as we have explained, we believe that such an interpretation is fully consistent with both the language of the waiver provision and the policy underlying Section 613(b), and therefore is the best interpretation of Section 613(b)(4). For those reasons, and in light of the fact that such an interpretation also avoids a serious constitutional issue, we now adopt our tentative conclusion that the waiver provision should be interpreted to authorize us to consider and approve requests by telephone companies to provide video programming over video dialtone systems, subject to the rules we have enacted and any further rules we will enact to govern video dialtone systems.

16. Finally, we also conclude that our reading of Section 613(b)(4) is not foreclosed by the D.C. Circuit's 1990 decision in *NCTA* v. *FCC,* 914 F.2d 285 (D.C. Cir. 1990). That case did not involve video dialtone service and presented no constitutional issue. It instead involved a waiver of FCC cross-ownership rules authorizing a cable operator to provide cable service over a

[3] We recognize that the Fourth Circuit reserved judgment on the constitutionality of our recommended model. *C&P,* 42 F.3d at 202 n.34. However, if that recommended approach does not render the statute constitutional then, contrary to the court's holding it is not '' 'Kobvious less-burdensome alternative,' '' because it is no alternative at all. *Id.* at 202.

[4] We do not decide today whether we could grant a waiver authorizing a telephone company to build a traditional cable system in its telephone service area in competition with an existing cable system. Nor do we address the conditions under which a waiver might be warranted to allow a telephone company to purchase an in-region cable system.

telephone companies' wires even though the cable operator was affiliated with the telephone company in violation of the rules by virtue of their joint interest in the contractor that was to build the cable system. The court acknowledged that the project ''presents a number of advantages that might justify a good cause waiver.'' However, it held that the Commission had ''failed * * * to explain why any of these advantages require [the contractor's] participation as [the telephone companies'] contractor.'' In this case, in contrast, in light of the decisions holding Section 613(b) unconstitutional, it is necessary to waive Section 613(b) to allow affiliates of telephone companies to provide video programming in order to render the statute constitutional. The Ninth Circuit recognized that a waiver might be warranted in these circumstances in *GTE California, Inc.* v. *FCC,* 39 F.3d 940 (1994), a case that (unlike *NCTA* v. *FCC*) involved a constitutional challenge to Section 613(b). The Ninth Circuit stated in that case, in response to the argument that Section 613(b) is unconstitutional, that ''GTECA did not present the constitutional issue to the Commission at a point in this proceeding where it could have tried to obviate the constitutional question by granting discretionary relief, such as a permanent waiver.'' As that statement recognizes, a waiver is warranted to implement what the Ninth Circuit in *US West* termed our ''more speech-friendly plan'' and hence avoid a serious constitutional issue.

17. *Conclusion.* Accordingly, it is ordered that Section 613(b)(4) of the Communications Act is interpreted to authorize waivers permitting telephone companies to provide video programming directly to subscribers in their telephone service area pursuant to the rules we will adopt in this docket or related rulemaking proceedings.

List of Subjects in 47 CFR Part 63

Ownership rules, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–14833 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–196; RM–8041]

Radio Broadcasting Services; Tallassee and Tuskegee, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 260A from Tuskegee to Tallassee, Alabama, and modifies the license of WACQ, Incorporated for Station WACQ-FM, as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The allotment of Channel 260A to Tallassee will provide a first local FM service to the community without depriving Tuskegee of local aural transmission service. *See* 57 FR 44354, September 25, 1992. Coordinates used for Channel 260A at Tallassee, Alabama, are 32–26–30 and 85–47–45. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 92–196, adopted June 6, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 260A at Tuskegee, and by adding Tallassee, Channel 260A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14835 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–129; RM–7664]

Radio Broadcasting Services; Lake Havasu City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 244C2 to Lake Havasu City, Arizona, as that community's fourth local FM service, in response to a petition for rulemaking filed on behalf of Bridge Broadcasting. *See* 56 FR 21465, May 9, 1991. Coordinates used for Channel 244C2 at Lake Havasu City are 34–29–02 and 114–19–18. Lake Havasu City is located within 320 kilometers (199 miles of the United States-Mexico border and therefore, concurrence of the Mexican government to this proposal was obtained. With this action, the proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications on Channel 244C2 at Lake Havasu City, Arizona, will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 244C2 at Lake Havasu City, Arizona, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 91–129, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of the title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 244C2 at Lake Havasu City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14845 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–9; RM–8560]

Radio Broadcasting Services; Cambria, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278A to Cambria, California, as that community's second local FM service, in response to a petition for rule making filed on behalf of James Kampschroer. *See* 60 FR 5158, January 26, 1995. Coordinates used for Channel 278A at Cambria are North Latitude 35–33–54 and West Longitude 121–04–48. With this action, the proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications for Channel 278A at Cambria, California, will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 278A at Cambria should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–9, adopted June 7, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California is amended by adding Channel 278A at Cambria.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14837 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 94–73; RM–8489]

Radio Broadcasting Services; Clarksdale, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Leroy P. Jenkins, Jr., d/b/a Delta Blues Broadcasting, allots Channel 221A to Clarksdale, Mississippi. *See* 59 FR 35292, September 13, 1994. Channel 221A can be allotted to Clarksdale, Mississippi, in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) west to avoid a short-spacing conflict with the presently licensed site of Station WUMS(FM), Channel 221A, University, Mississippi. The coordinates for Channel 221A at Clarksdale are 34–11–42 and 90–37–38. With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–73, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Channel 221A at Clarksdale.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14839 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 94–69; RM–8490, RM–8536]

Radio Broadcasting Services; Grenada and Crenshaw, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Delta Radio, Inc. allots Channel 222A to Grenada, Mississippi, as the community's second local FM service. At the request of Robert E. Evans, III, the Commission allots Channel 295A to Crenshaw, Mississippi, as the community's first local aural transmission service. *See* 59 FR 35293, July 11, 1994. Channels 222A and 295A can be allotted to Grenada and Crenshaw, Mississippi, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 222A can be allotted to Grenada with a site restriction of 4.6 kilometers (2.9 miles) north to avoid a short-spacing with the licensed site of Station WQST(FM, Channel 223C, Forest, Mississippi. The coordinates for Channel 222A at Grenada are 33–49–02 and 89–48–00. For Channel 295A at Crenshaw a site restriction of 7.2 kilometers (4.4 miles) southeast is needed to avoid a short-spacing conflict with a construction permit for Station KXFE(FM), Channel 295C3, Dumas, Arkansas. The

coordinates for Channel 295A at Crenshaw are 34–28–36 and 90–07–38.

With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–69, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Channel 222A at Grenada, and by adding Crenshaw, Channel 295A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14838 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–27; RM–8582]

Radio Broadcasting Services; Yazoo City, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mississippi College, substitutes Channel 226A for Channel 229A at Yazoo City, Mississippi. *See* 60 FR 10826, February 28, 1995. Channel 226A can be allotted to Yazoo City, Mississippi, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.4 kilometers (7.7 miles) east to avoid short-spacing conflicts with the licensed site of Station KQID(FM), Channel 226C, Alexandria, Louisiana, and to a construction permit for Station WDTL(FM), Channel 225C2, Cleveland, Mississippi. The coordinates for Channel 226A at Yazoo City are 32–50–29– and 90–16–28. With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–27, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 229A and adding Channel 226A at Yazoo City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14834 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 94–151; RM–8555]

Radio Broadcasting Services; Buffalo and Lamar, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 260C3 for Channel 260A at Buffalo, Missouri, modifies the license for Station KBFL(FM) to specify Channel 260C3, substitutes Channel 269A for Channel 260A at Lamar, Missouri, and modifies the license for Station KHST(FM) to specify operation on Channel 269A in response to a petition filed jointly by KBFL Broadcasting Company and KHST Broadcasting Company. *See* 59 FR 66883, December 28, 1994. The coordinates for Channel 260C3 at Buffalo are 37–35–30 and 93–02–30. The coordinates for Channel 269A at Lamar are 37–25–27 and 94–16–12. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 94–151, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 260A and adding Channel 260C3 at Buffalo and by

removing Channel 260A and adding Channel 269A at Lamar.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14842 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–10; RM–8572]

Radio Broadcasting Services; Sun Valley, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of James D. Sleeman, allots Channel 229A to Sun Valley, NV, as the community's first local FM service. *See* 60 FR 5158, January 26, 1995. Channel 229A can be allotted to Sun Valley in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 39–35–47 North Latitude and 119–46–30 West Longitude. With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications will open on July 28, 1995, and close on August 28, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–10, adopted June 2, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Sun Valley, Channel 229A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14843 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 94–84; RM–8478]

Radio Broadcasting Services; Driscoll, Gregory and Robstown, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies the petition for rule making filed by Cotton Broadcasting, licensee of Station KMIQ(FM), Channel 286A, Robstown, Texas, requesting the substitution of Channel 283C3 for Channel 286A, the reallotment of Channel 283C3 from Robstown to Driscoll, Texas, and the deletion of vacant Channel 283A at Gregory, Texas. *See* 59 FR 38950, August 1, 1994, and 60 FR 13947, March 15, 1995. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–84, adopted June 6, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14836 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–4; RM–8501]

Radio Broadcasting Services; Charlotte Amalie, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Virgin Islands Public Television System, allots Channel *226A at Charlotte Amalie, Virgin Islands, and reserves it for noncommercial educational use. *See* 60 FR 5157, January 16, 1995. Channel *226A can be allotted to Charlotte Amalie in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested site. The coordinates for Channel *226A at Charlotte Amalie are North Latitude 18–21–26 and West Longitude 64–56–50. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

DATES: Effective July 28, 1995. The window period for filing applications for Channel *226A at Charlotte Amalie, Virgin Islands, will open on July 28, 1995, and close on August 28, 1995.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–4, adopted June 2, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virgin Islands, is

amended by adding Channel *226A at Charlotte Amalie for noncommercial educational use.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14840 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–2; RM–8502]

Radio Broadcasting Services; Charlotte Amalie, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Virgin Islands Youth Development Radio, Inc., allots Channel *275A at Charlotte Amalie, Virgin Islands, and reserves it for noncommercial educational use. *See* 60 FR 3613, January 18, 1995. Channel *275A can be allotted to Charlotte Amalie in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (6.6 miles) west. The coordinates for Channel *275A at Charlotte Amalie are North Latitude 18–21–20 and West Longitude 65–01–45. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

DATES: Effective July 28, 1995. The window period for filing applications for Channel *275A at Charlotte Amalie, Virgin Islands, will open on July 28, 1995, and close on August 28, 1995.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–2, adopted June 2, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virgin Islands, is amended by adding Channel *275A at Charlotte Amalie for noncommercial educational use.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14841 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 93–201; RM–8213, RM–8252]

Radio Broadcasting Services; Walla Walla and Waitsburg, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Walla Walla Christian Broadcasters, allots Channel 256A at Walla Walla, Washington, as the community's fifth local commercial FM transmission service (RM–8213). We also, at the request of Brett E. Miller, dismiss the mutually exclusive proposal to allot Channel 270C3 at Waitsburg, Washington, as the community's first local aural transmission service (RM–8252). *See* 58 FR 37696, July 13, 1993. Channel 256A can be allotted to Walla Walla in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 256A at Walla Walla are North Latitude 46–04–12 and West Longitude 118–19–48. With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications for Channel 256A at Walla Walla, Washington will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93–201, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Channel 256A at Walla Walla.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–14844 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 60, No. 117
Monday, June 19, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–09]

Airworthiness Directives; AlliedSignal Inc. TPE331 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain AlliedSignal Inc. TPE331 series turboprop engines. This proposal would establish cyclic retirement lives for certain compressor components. This proposal is prompted by manufacturer's engine testing and analysis that indicate that if these compressor components continue in service without an established retirement life, accumulative cyclic effects may result in a fatigue failure. The actions specified by the proposed AD are intended to prevent fatigue failure of engine compressor components and an inflight engine shutdown.

DATES: Comments must be received by August 18, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–09, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Engines Data Distribution, Dept. 6403/2102–1M, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, FAX (602) 365–2210. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5246; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–09.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–09, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Following an analysis of the AlliedSignal Inc. Model TPE331–14GR and TPE331–14HR turboprop engines tieshaft aft thread form, the Federal Aviation Administration (FAA) has determined that main shouldered shafts (tieshafts) and forward coupling shafts (stub shafts), installed on AlliedSignal Inc. Models TPE331–14A, -14B, -14F, and -15AW turboprop engines, are subject to a fatigue limit. Engine testing and analysis indicate that if these compressor components, which were previously certified as having unlimited service lives, continue in service without established retirement lives, fatigue failure may result. This condition, if not corrected, could result in fatigue failure of engine compressor components and an inflight engine shutdown.

The FAA has reviewed and approved the technical contents of AlliedSignal Inc. Service Bulletins (SB's): No. TPE331–A72–7128, dated June 10, 1994, No. TPE331–A72–7129, dated June 10, 1994, and No. TPE331–A72–7522, dated February 17, 1995, that describe main shouldered shaft (tieshaft) cyclic life limits; and No. TPE331–72–7130, dated June 17, 1994, No. TPE331–72–7131, dated June 17, 1994, and No. TPE331–72–7523, dated February 17, 1995, that describe forward coupling shaft (stub shaft) cyclic life limits.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would establish cyclic retirement lives for main shouldered shafts (tieshafts) and forward coupling shafts (stub shafts). The actions would be required to be accomplished in accordance with the SB's described previously.

There are approximately 200 engines of the affected design in the worldwide fleet. The FAA estimates that 150 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 80 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $22,000 per engine for engines where tieshafts and stub shafts are not serviceable. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,020,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AlliedSignal Inc.: Docket No. 95–ANE–09.

Applicability: AlliedSignal Inc. Models TPE331–14A, –14B, –14F, and –15AW turboprop engines, installed on but not limited to the following aircraft: Piper Model PA–42–1000 and Grumman Model TS–2A (modified in accordance with Supplemental Type Certificate SA4837NM).

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of engine compressor components and an inflight engine shutdown, accomplish the following:

(a) For main shouldered shafts (tieshafts), Part Number (P/N) 3105102–1, initiate a life limited part log card and remove from service in accordance with the following schedule and the following AlliedSignal Inc. Alert Service Bulletins (ASB's):

(1) Determine CIS for the main shouldered shafts (tieshafts) as follows:

(i) For main shouldered shafts (tieshafts) installed in TPE331–14A and -14B engines, in accordance with ASB No. TPE331–A72–7128, dated June 10, 1994.

(ii) For main shouldered shafts (tieshafts) installed in TPE331–14F engines, in accordance with ASB No. TPE331–A72-7129, dated June 10, 1994.

(iii) For main shouldered shafts (tieshafts) installed in TPE331–15AW engines, in accordance with ASB No. TPE331- A72–7522, dated February 17, 1995.

(2) For main shouldered shafts (tieshafts) with greater than 5,600 cycles in service (CIS) on the effective date of this airworthiness directive (AD), or if operating hours or cycles are unknown, remove from service within 400 CIS after the effective date of this AD.

(3) For main shouldered shafts (tieshafts) with 5,600 or less CIS on the effective date of this AD, remove from service prior to accumulating 6,000 CIS.

(b) For forward coupling shafts (stub shafts), P/N 3104281–2, initiate a life limited part log card, reidentify the P/N, serialize the forward coupling shaft (stub shaft), at the next major periodic inspection or complete disassembly of the compressor module after the effective date of this AD, whichever occurs first, and remove from service in accordance with the following AlliedSignal Inc. Service Bulletins (SB's):

(1) For forward coupling shafts (stub shafts) installed in TPE331–14A and -14B engines, in accordance with SB No. TPE331–72–7130, dated June 17, 1994.

(2) For forward coupling shafts (stub shafts) installed in TPE331–14F engines, in accordance with SB No. TPE331–72–7131, dated June 17, 1994.

(3) For forward coupling shafts (stub shafts) installed in TPE331–15AW engines, in accordance with SB No. TPE331–72–7523, dated February 17, 1995.

(4) Remove from service forward coupling shafts (stub shafts) prior to accumulating 20,000 CIS.

Note: For guidance on the destruction or marking of parts no longer serviceable for aviation use, see Advisory Circular 21–38, dated July 5, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

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

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

Issued in Burlington, Massachusetts, on June 12, 1995.

Ronald L. Vavruska,

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

[FR Doc. 95–14871 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–67–1–6130b; FRL–5192–4]

Approval and Promulgation of Implementation Plans; Kentucky: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), which will be fully implemented by November 15, 1994. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct

final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by July 19, 1995.

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

Copies of the material submitted by the Commonwealth of Kentucky may be examined during normal business hours at the following locations:

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

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

Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 extension 4195.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: April 10, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–14449 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TX–37–1–6323b; FRL–5162–1]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Alternative Emission Control Plan For Shell Oil Company, Deer Park, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA in this action proposes to approve the alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex as a revision to the Texas State Implementation Plan (SIP). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 19, 1995.

ADDRESSES: Written comments on this action should be addressed to Mr. Guy Donaldson, Acting Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

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

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Leila Yim Surratt or Mr. Herb Sherrow, Planning Section (6T-AP), Air Programs Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the final rules section of this **Federal Register**.

Dated: February 8, 1995.

William B. Hathaway,

Acting Regional Administrator.

[FR Doc. 95–14853 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH50–4–7071; FRL–5222–8]

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

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of comment period extension on proposed rule.

SUMMARY: On May 2, 1995, the United States Environmental Protection Agency (USEPA) published a proposed rule (60 FR 21490) and a direct final rule (60 FR 21456) approving a request by Ohio to redesignate the Toledo ozone nonattainment area to attainment of the National Ambient Air Quality Standard for ozone, and also approving the State's maintenance plan for this area. Several commentors provided comments on the proposed approval, and made a general request that the USEPA extend the public comment period on the rulemaking. One commentor requested an extension of the comment period so that concerns about increased vehicle emissions caused by new road contruction projects and a possible increase in highway tolls can be evaluated and addressed. The USEPA is denying the extension requests for the following reasons: Ohio solicited public comments on the issues associated with redesignating the Toledo area in October 1993; the USEPA announced its conclusions regarding the request to the press 6 weeks before publishing the action; justification was not provided that extending the comment period would significantly enhance public input; the USEPA will address the commentors' concerns in a final rule document; and no parties wishing to actually make additional comments were identified. The USEPA notes that a public function for the rulemaking package was held on March 14, 1995, in Toledo, Ohio, and it was shown on television news programs. Based on the factors discussed above, since the public was made aware of this rulemaking action, and because no party has sought to submit comments after the comment period, the USEPA does not believe that an extension of the comment period is warranted. The USEPA is withdrawing the direct final rule mentioned above in a final rule published elsewhere in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Angela Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson

Boulevard, Chicago, Illinois 60604. Telephone: (312) 353–5142.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 7, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–14851 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3150

[WO–610–4110–02 1A]

RIN 1004–AC25

Onshore Oil and Gas Geophysical Exploration

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management gives notice of its intention to propose a rule to: Impose a fee to recover costs incurred for processing notices of intent to conduct onshore oil and gas geophysical exploration; and establish guidelines for charging fair market value for the use of Federal lands during onshore oil and gas geophysical exploration operations. The purpose of this notice is to solicit comments to help guide preparation of the proposed rule.

DATES: Comments on the advance notice of proposed rulemaking must be received by August 21, 1995. Comments postmarked after this date may not be considered in the preparation of the proposed rule.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, 1849 C Street, N.W., Washington, D.C. 20240. Comments can also be sent to WO140@attmail.com. Please include ''attn: AC25'' and your name and return address in your internet message. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, Leader, Compliance Team, Bureau of Land Management, (202) 452–0340.

SUPPLEMENTARY INFORMATION: The rule will be proposed based on recommendations by the Office of the Inspector General (OIG) for the Department of the Interior. The OIG recommended that the Bureau of Land Management: (1) impose a $500 fee to recover the costs of processing a notice of intent to conduct oil and gas geophysical exploration operations; and (2) establish and implement procedures for charging operators fair market value for use of Federal lands during onshore oil and gas geophysical exploration and seismic surveys.

Office of Management and Budget Circular No. A–25, as amended and supplemented, requires agencies to establish user charges based on sound management principles and, to the extent feasible, in accordance with commercial practices. The charges need not be limited to the recovery of costs; they may also produce net revenues to the Federal Government. The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701 *et seq.*) reaffirmed long-standing Congressional support of fair market value as a basis for fees. Section 102(a) of FLPMA (43 U.S.C. 1701(a)) states that it is the policy of the United States that the United States must receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute. Section 304 of FLPMA (43 U.S.C. 1734) authorizes the Secretary to establish reasonable filing and service fees and reasonable charges.

This advance notice of proposed rulemaking presents only a general description of the actions being considered and includes no regulatory text.

The Bureau of Land Management currently charges no filing fee for notices of intent (NOI) for oil and gas geophysical exploration for lands outside of Alaska. Other Federal agencies, including the Forest Service, the Fish and Wildlife Service, and the Bureau of Indian Affairs, issue permits and charge fees for oil and gas geophysical exploration. Additionally, several State governments charge fees for geophysical exploration. Research has shown that BLM incurs costs per case estimated to range from $450 to $1,500 in processing and monitoring each NOI.

Most agencies base charges for conducting geophysical surveys on line miles of the seismic survey. However, some agencies use the number of shot holes or other criteria to calculate the charge and/or fee. Charges range from nothing up to about $1,000 per line mile, with the average being a few hundred dollars per line mile.

In publishing this advance notice of intent to propose rulemaking, the Bureau of Land Management requests information and public comments on:

a. The effect of charging a $500 fee to recover the cost of processing a notice of intent to conduct onshore oil and gas geophysical exploration operations.

b. The effect of an additional charge for the use of the surface of Federal lands while conducting oil and gas geophysical surveys. (The additional charge would not apply to a Federal lessee conducting such activities on its own leases.)

c. The most appropriate method of determining the additional charge for surface use, including the following possibilities:

1. Whether the surface use charge should be based on a flat rate of $200 per seismic line mile or fraction thereof;

2. Whether the surface use charge should be based on the size of the area affected by the survey, e.g., $800 per section or square mile involved.

3. Whether the surface use charge options in 1. and 2., above, should be higher for those seismic methods involving more extensive surface disturbance.

The public is invited to raise any additional issues of concern related to the proposed processing fee and surface use charges for geophysical exploration operations, including any other factors that should be considered in determining the reasonableness of the proposed fee and charge.

The principal author of this advance notice of proposed rulemaking is Gloria Jean Austin of the of Fluids Group, Compliance Team, assisted by the staff of the Regulatory Management Team, Bureau of Land Management.

Dated: June 13, 1995.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

[FR Doc. 95–14933 Filed 6–16–95; 8:45 am]

BILLING CODE 4130–84–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 12, 14, 15, 16, 31, 33, 36, 45, 46, 49, 52, and 53

[FAR Case 94–721]

RIN 9000–AG30

Federal Acquisition Regulation; Truth in Negotiations Act and Related Changes

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Extension of comment period and notice of public meeting.

SUMMARY: This public notice is issued to familiarize the public with the status of the rulemaking effort on FAR Case 94–721, Truth in Negotiations Act and Related Changes (TINA), which implements the Federal Acquisition Streamlining Act of 1994 (FASA), to extend the period for public comment, and to provide notice of a public meeting. The TINA drafting team has made some refinements to the proposed rule that was published in the January 6, 1995, **Federal Register.** The revised coverage has been mailed to the public commenters on FAR Case 94–721 and copies may be obtained by other interested parties.

DATES: *Comment Date:* Comments should be submitted to the FAR Secretariat at the address shown below on or before July 19, 1995.

Meeting Date: The meeting will be held at 2:00 p.m. on July 7, 1995.

ADDRESSES: A copy of the revised coverage may be obtained by calling the FAR Secretariat at 202–501–4755. Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The public meeting will be held at: General Services Administration, National Capital Region Auditorium, 7th & D Streets, SW, Washington, DC 20407. Please cite FAR case 94–721 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Al Winston, Truth in Negotiations Act (TINA) Team Leader, at (703) 602–2119 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GSA Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 94–721.

SUPPLEMENTARY INFORMATION:

A. Background

On January 6, 1995, a proposed rule was published in the **Federal Register** (60 FR 2282). The proposed rule afforded the public a 60 day comment period. During that time, 40 organizations submitted more than 213 comments. A public meeting was also held on this rule on February 13, 1995. Based upon comments received, the TINA drafting team refined the coverage. Accordingly, a copy of revised coverage has been mailed to previous public commenters on FAR Case 94–721. The purpose of this notice is to advise the public generally of the availability of the revised coverage and enable other interested parties to obtain a copy by contacting the FAR Secretariat.

B. Case Summary

FAR case 94–721 implements Sections 1201 through 1210 and Sections 1251 and 1252 of FASA. Highlights include making TINA requirements for civilian agencies substantially the same as those for the Department of Defense (increasing the threshold for submission of ''cost or pricing data'' to $500,000 and adding penalties for defective pricing). Provisions are also included that increase the threshold for cost or pricing data submission every 5 years beginning October 1, 1995. New exceptions are added to the requirement for the submission of ''cost or pricing data'' for commercial items; approval levels for waivers are changed, and prohibitions are placed on acquiring ''cost or pricing data'' when an exception applies. The coverage includes a clear explanation of adequate price competition as required by the Act.

Also, FAR coverage has been included that addresses (1) ''information other than cost or pricing data'', (2) exemptions based on established catalog or market price, (3) inter-divisional transfers of commercial items at price, and (4) price competition when only one offer has been received.

The FAR language primarily modifies FAR Part 15, together with associated Part 52 clauses and Part 53 forms. However, some coverage addresses contract clauses where threshold changes are made in Part 14 pertaining to sealed bid contracting, and in Part 31 where the cost principle on material costs has been amended to address inter-divisional transfers of commercial items at price. Additional miscellaneous changes in Parts 4, 12, 15, 16, 31, 33, 36, 45, 46, 49, and 53 have also been included.

When a final rule is promulgated, it will also supersede the earlier FAR case 94–720 that was previously published as an interim rule in Federal Acquisition Circular (FAC) 90–22. FAR case 94–720 provided for an immediate increase of the threshold for ''cost or pricing data'' submission by contractors to civilian agencies to $500,000. FAC 90–22 (FAR case 94–720) also removed the certification requirement of commercial pricing for parts or components for contractors doing business with civilian agencies.

C. Summary of Changes

The following are highlights of changes that have been made to the proposed rule as a result of the written comments received during the comment period and other issues that were raised at the public hearing held on 13 February 1995:

- The coverage has been edited to improve readability.
- The hierarchical policy at FAR 15.802 has been clarified to ensure that it is consistent with TINA and FASA.
- Regulatory guidance implementing the catalog or market price exception to TINA has incorporated more flexible procedures (See FAR 52.215–41).

—The Standard Form (SF) 1412 is eliminated.
—Relational tests have been eliminated.
—Disclosure of lowest prices is no longer mandated.
—TINA-based postaward audit access is no longer required.
—Expanded guidance is provided on what constitutes substantial sales.
—Requirement for offerors to account for ''end users'' when addressing sales to the general public has been eliminated.
—Reference to GSA certifications for granting a prior exemption under FAR 15.804–1(c)(1)(ii)(B) is removed.

- Flexibility in requesting an exception to TINA is improved via a generic provision at FAR 52.215–41 that provides broad guidelines on the type of data that would be needed to qualify for a TINA exception.
- A ''Commercial Item'' definition cross-reference is given.
- A definition of ''cost realism'' has been added.
- Additional data requirements have been removed for qualification under the commercial item exception created by FASA (rebates, credits, warranties, and sales to resellers).
- Expanded guidance is provided on effective dates for certification of cost or pricing data.

E. Presentations at the Public Meeting

To allow the public to present its views on the refinements to this proposed rule, a public meeting will be held at the GSA National Capital Region Auditorium on July 7, 1995. Persons or organizations wishing to make presentations will be allowed 10 minutes to present their views, provided they notify the FAR Secretariat at (202) 501–4745 and provide an advance copy of their remarks not later than July 5, 1995.

Dated: June 13, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act.

[FR Doc. 95–14832 Filed 6–16–95; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 95–45; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

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

ACTION: Proposed decision.

SUMMARY: This proposed decision responds to a petition filed by MedNet Incorporated requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 1996 through 1998, and that lower alternative standards be established. In this document, NHTSA proposes that the requested exemption be granted and that an alternative standard of 17.0 mpg be established for MY 1996, MY 1997, and MY 1998, for MedNet.

DATES: Comments on this proposed decision must be received on or before August 3, 1995.

ADDRESSES: Comments on this proposal must refer to the docket number and notice number in the heading of this notice and be submitted, preferably in ten copies, to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Spinner, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Spinner's telephone number is: (202) 366–4802.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to 49 U.S.C. section 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

(1) Technological feasibility

(2) Economic practicability

(3) The effect of other Federal motor vehicle standards on fuel economy, and

(4) The need of the Nation to conserve energy.

The statute at 49 U.S.C. 32902(d)(2) permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) a separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

Background Information on MedNet

MedNet Incorporated (MedNet) is a small company that will produce the Dutcher Paratransit Vehicle (PTV). Dutcher Motors, Inc. (Dutcher), the previous manufacturer of these vehicles, was chartered in 1984 to manufacture a limited quantity of special purpose vehicles—Dutcher PTV. Since its establishment, Dutcher produced only two vehicles. MedNet recently acquired Dutcher's assets. Dutcher's willingness to sell to MedNet was based on its own inability to produce the Dutcher PTV vehicles. MedNet now intends to produce the Dutcher PTV. The Dutcher PTV is a large passenger car intended to be used in providing transportation for mobility-impaired individuals. MedNet intends to begin production of the Dutcher PTV in the summer of 1995 and anticipates manufacturing 100, 250, and 500 vehicles, respectively for MYs 1996, 1997, and 1998.

MedNet's Petition

On June 27, 1994, MedNet petitioned NHTSA for exemption from CAFE standards for model years (MYs) 1996, 1997, and 1998. MedNet's petition was filed less than 24 months prior to the beginning of model year 1996 as required by 49 CFR Part 525.6. The petition can be accepted late if ''good cause for late submission is shown'' as stated in 49 CFR 525.6. The reason for MedNet's late submission for MY 1996 is its recent acquisition of Dutcher Motors, Inc. (Dutcher) assets. Dutcher's willingness to sell to MedNet was based on its own inability to produce the Dutcher PTV vehicles. Thereafter, MedNet relocated Dutcher's equipment and parts from San Marcos, California to Battle Creek, Michigan. Because of new ownership and lack of knowledge of the required procedures of 49 CFR 525, MedNet believed that it was exempted from the standards based on Dutcher's prior exemption (56 FR 37478). Dutcher has filed several petitions requesting exemptions from the generally applicable CAFE standards for MYs 1986–1988 and MYs 1992–1995. Dutcher's most recent petition was submitted on December 5, 1990, requesting alternative standards for MYs 1992–1995. The agency granted the petition and established an alternate standard of 17.0 miles per gallon (mpg) for MYs 1992–1995.

Under the circumstances outlined above, NHTSA determines good cause is shown by MedNet for the submission of its untimely petition.

Classification of Dutcher PTV as a Passenger Automobile

Due to differences in the definitions used by this agency under the Cost Savings Act for CAFE purposes and the Environmental Protection Agency under the Clean Air Act for emissions control purposes, the Dutcher PTV is classified differently by these two agencies. The Environmental Protection Agency (EPA) classified the predecessor to the Dutcher PTV, the Transitaxi, as a ''light duty truck'' for emissions compliance due to that model's derivation from existing truck components. (40 CFR 86.02–2). However, NHTSA concluded that the Transitaxi was a ''passenger automobile'' for fuel economy purposes. Both the Transitaxi and the Dutcher PTV are passenger automobiles under the definition in 49 CFR 523.4 since each transports not more than 10 individuals and does not meet any configurational or usage criteria for light trucks given in 49 CFR 523.5. MedNet plans to produce the Dutcher PTV without substantial change from the design used by Dutcher for the Transitaxi. NHTSA therefore concludes that the Dutcher PTV to be produced in MY's 1996–1998 is a ''passenger automobile'' for fuel economy purposes.

Methodology Used To Project Maximum Feasible Average Fuel Economy Level for MedNet

Baseline Fuel Economy

To project the level of fuel economy which could be achieved by MedNet in MYs 1996–1998, the agency considered whether there were technical or other improvements that would be feasible for these vehicles, and whether or not the company currently plans to incorporate such improvements in the vehicles. The

agency reviewed the technological feasibility of any changes and their economic practicability.

NHTSA interprets ''technological feasibility'' as meaning that technology which would be available to MedNet for use on its MY 1996 through 1998 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, and reduced rolling resistance.

The agency interprets ''economic practicability'' as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its MYs 1996 through 1998 automobiles. In assuming that capability, the agency has always considered market demand as an implicit part of the concept of economic practicability.

In accordance with the concerns of economic practicability, NHTSA has considered only those improvements which would be compatible with the basic design concepts of MedNet automobiles. Since NHTSA assumes that MedNet will continue to sell vehicles exclusively designed to be used for transporting the wheelchair bound or other mobility-impaired individuals, design changes that would impair the ability of the vehicle to perform this function were not considered. Such changes to the basic design would be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

Technology for Fuel Economy Improvement

Due to MedNet's limited financial resources, small engineering staff, very low production volume, and assemblage of stock components, few opportunities for technological improvement for fuel economy exist. MedNet uses General Motors 3.8 liter electronically fuel injected V–6 engines and four speed automatic transmissions for its MYs 1996–1998 prototypes. Therefore, MedNet depends entirely on the supplier of the engine and drivetrain for technological improvements in fuel efficiency of the engine and drivetrain.

MedNet uses a four-speed automatic transmission with lockup torque converter clutch, one of the more efficient transmission designs. The constant velocity universal joints are a low friction design.

MedNet incorporates in its Dutcher PTV flush windows and door handles, a bottom cover, and a smooth front cowl, all of which reduce drag on the vehicle. MedNet's low dynamometer horsepower setting for certification testing, as shown in the table below, when compared to other small passenger vans and wagons, illustrates that the Dutcher PTV uses good aerodynamic design equivalent to current industry standards.

DYNAMOMETER SETTING COMPARISON

Model	Actual dynamometer horsepower
Dutcher PTV	12.5
Ford Aerostar*	11.2
GM Astro*	17.9
Toyota Previa*	14.0
Chrysler Caravan/Voyager*	11.8
Mercury Villager*	10.1
Chevrolet Caprice Wagon	8.5

*These vehicles are classified by EPA as light trucks.

To achieve maximum weight reduction, the body is made primarily of fiberglass.

MedNet's only significant opportunity for improvement will be the result of any improvements which GM decides for its own purposes to make in the engine and drivetrain it will supply for MedNet. MedNet's role will be limited to attempting to modify the drivetrain to meet emissions requirements.

Model Mix

Since only one vehicle model will be built for MY's 1996–1998, the MedNet corporate average fuel economy is based on the fuel economy of that one model, the Dutcher PTV, and cannot be averaged in with the fuel economy of any other models.

The Effect of Other Vehicle Standards

The new more stringent California emission standards enacted in MY 1995 and the similarly stringent Federal Clean Air Act Amendments will apply in MY 1996. MedNet may achieve lower fuel economy due to compliance with these standards. In addition, a portion of its limited engineering resources will have to be expended to comply with these more stringent emissions standards including, but not limited to, evaporative emission standards.

Federal safety standards also have an adverse effect on fuel economy of Dutcher PTV vehicles. These standards include 49 CFR Part 581 *Energy absorbing bumpers,* Standard No. 214 *Side impact protection,* and Standard No. 208, *Occupant crash protection.* These standards tend to reduce achievable CAFE levels, since they result in increased vehicle weight. As previously noted, MedNet is a small company, and engineering resources are limited. Priority must be given to meeting mandatory standards to remain in the marketplace.

The Need of the Nation to Conserve Energy

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for MedNet to achieve an average fuel economy in MYs 1996 through 1998 above the levels set forth in this proposed decision. Granting an exemption to MedNet and setting an alternative standard at that level would result in only a negligible increase in fuel consumption and would not affect the need of the Nation to conserve energy.

Maximum Feasible Average Fuel Economy for MedNet

The agency has tentatively concluded that it would not be technologically feasible and economically practicable for MedNet to improve the fuel economy of its MY 1996 through 1998 above an average of 17.0 mpg for MY 1996, 17.0 mpg for MY 1997, and 17.0 mpg for MY 1998. Federal automobile standards would not adversely affect achievable fuel economy beyond the amount already factored into MedNet's projections, and the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard.

Consequently, the agency tentatively concludes that the maximum feasible average fuel economy for MedNet is 17.0 mpg in MY 1996, 17.0 mpg in MY 1997, and 17.0 mpg in MY 1998.

NHTSA tentatively concludes that it would be appropriate to establish a separate standard for MedNet for the following reasons. For MY 1996, the agency has already granted petitions for an alternative standard of 14.6 mpg for Rolls-Royce. The agency has also received a petition from Rolls-Royce for an alternative standard for MY 1997. Therefore, the agency cannot use the second (class standards) or third (single standard for all exempted manufacturers) approaches for MYs 1996 and 1997. In order to avoid undue hardship to MedNet, given its limited ability to improve the fuel economy of its vehicles, the use of a single standard will be allowed by MY 1998 as well.

Regulatory Impact Analyses

NHTSA has analyzed this proposal and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the proposal would not establish a ''rule,'' which is defined in the Executive Order as ''an agency statement of general applicability and future effect.'' The proposed exemption is not generally applicable, since it would apply only to MedNet, Inc., as discussed in this notice. Under DOT regulatory policies and procedures, the proposed exemption would not be a ''significant regulation.'' If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this proposal sets an alternative standard at the level determined to be MedNet's maximum feasible level for MYs 1996 through 1998, no fuel would be saved by establishing a higher alternative standard. NHTSA finds that because of the minuscule size of the MedNet fleet, that incremental usage of gasoline by MedNet customers would not affect the nation's need to conserve gasoline. There would not be any impacts for the public at large.

The agency has also considered the environmental implications of this proposed exemption in accordance with the National Environmental Policy Act and determined that this proposed exemption if adopted, would not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemptions and alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel used.

Interested persons are invited to submit comments on the proposed decision. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential business information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed under the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 would be amended to read as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 would be revised to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In § 531.5, the introductory text of paragraph (b) is republished for the convenience of the reader and paragraph (b)(12) would be added to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(12) MedNet, Inc.

Model year	Average fuel economy standard (miles per gallon)
1996	17.0
1997	17.0
1998	17.0

Issued on: June 14, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–14904 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Parts 564 and 571

[Docket No. 95–47; Notice 1]

RIN 2127–AF65

Replaceable Light Source Information; Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Federal motor vehicle safety standard on lighting to allow high intensity discharge (HID) light sources to be used in replaceable bulb headlamp systems, in addition to their presently-allowed use in integral beam headlamp systems. Adoption of this amendment would require corresponding amendments to part 564, the regulation under which Docket No. 93–11 was established as a depository for replaceable light source information. However, if the life of the light source approaches that of the vehicle, as is the case with HIDs, interchangeability will no longer be so important. Therefore, NHTSA proposes adding regulations which would allow a manufacturer to submit fewer items of dimensional information if it can demonstrate that the average rated laboratory life of its light source is not less than 2,000 hours.

DATES: Comments are due on the proposal by August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Rulemaking (202–366–6987).

SUPPLEMENTARY INFORMATION: On April 8, 1994, NHTSA published a notice in

the **Federal Register** calling attention to four new technologies that are being or will be used in signal lamps and headlamps subject to Standard No. 108 (59 FR 16788). These new signal lamp technologies are light-emitting diodes (LEDs), miniature halogen bulbs, long arc discharge bulb systems (e.g., neon and other gas filled tubular lamps), and short arc discharge bulb systems. The notice noted that it is likely that the latter will be used in headlamps, too.

Twenty-five comments were received in response to the notice. Among those who commented were Ford Motor Company, General Motors Corporation (GM), American Automobile Manufacturers Association (AAMA), Koito Manufacturing Co. Ltd., Hewlett-Packard, Hella KG Hueck & Co. (Hella), Volkswagen of America (VWoA), General Electric Company (GE), OSRAM Sylvania, Inc. (OSRAM), Stanley Electric Co. Ltd. (Stanley), and State Farm Insurance.

On the basis of the comments received, NHTSA has decided to initiate rulemaking that would amend Standard No. 108 so as to allow replaceable bulb headlamps to incorporate short arc discharge light sources. It is terminating action on the other lighting technologies for the reasons explained below.

I. Long and Short Arc Discharge Systems

With the thought of developing appropriate amendments to Standard No. 108 to facilitate the introduction of long and short arc discharge technology, NHTSA sought comments on the following:

A. Identification of the performance requirements and/or test procedures specified, or incorporated by reference, in Standard No. 108 that should be modified to accommodate the installation of arc discharge light sources in lamps required by the standard.

B. Specification of the performance requirements and/or test procedures that should be added to Standard No. 108 to accommodate the installation of arc discharge light sources while maintaining the present level of safety achieved by incandescent filament light sources.

C. Identification of any special considerations that should be made to accommodate the concept of a single light source whose light is distributed to the vehicle's lamps by lamp pipes, and an opinion as to whether it is premature to consider regulation of this concept.

D. An opinion of when Standard No. 108 should be amended to accommodate the use of arc light sources in production motor vehicles. These sources are permitted because Standard No. 108 does not specify requirements for signal light sources.

NHTSA received no specific recommendations on how to amend Standard No. 108 to facilitate the use of long arc lighting technology. Some commenters noted that the Society of Automotive Engineers (SAE) is drafting a recommended practice for long arc sources, but estimated that its completion date is well in the future. OSRAM Sylvania commented that it has developed a long arc (neon) Center High Mounted Stop Lamp (CHMSL) that is almost ready for production, and it recommended that NHTSA amend Standard No. 108 to state clearly that long arc sources may be tested *as a system* for compliance with Standard No.108 (which would allow testing with the ballast).

As currently being developed, long arc technology such as neon may be used to provide tail, stop, and turn signal lighting. Long and short arc discharge lamps are similar in some respects. Both require ballasts to transform the 12.8 volt vehicle electrical supply into an output format necessary to operate the discharge tube or bulb. Both operate at voltages substantially higher than the nominal 12.8 volts of a standard automobile battery. The ballast elevates the voltage output of the battery to the level required by the lamp.

NHTSA wishes to assure OSRAM that Standard No. 108 already permits testing of long arc light sources with their ballast. The agency interprets Paragraph S5.1.1.16 as permitting this. This paragraph states:

> S5.1.1.16 A lamp designed to use a type of bulb that has not been assigned a mean spherical candlepower rating by its manufacturer and is not listed in SAE Standard J573d, *Lamp Bulbs and Sealed Units,* December 1968, shall meet the applicable requirements of this standard when used with any bulb of the type specified by the lamp manufacturer, operated at the bulb's design voltage. A lamp that contains a sealed-in bulb shall meet these requirements with the bulb operated at the bulb's design voltage.

While this does not specifically mention long arc light sources with ballasts, the second sentence does address the use of lamps with bulbs that are ''sealed-in'' and those in which they are not. If a long arc lamp is manufactured with the light source and the ballast as a sealed unit (sealed within the lamp), then it would be tested for compliance by application of the design voltage at the lamp leads.

The first sentence of S5.1.1.16 addresses the situation where the ballast is separate from the lamp (not sealed within it) and externally connected to it. A long arc light source is considered a ''bulb'' and would be tested at its manufacturer's specified design voltage.

The allowance of long arc technology for signal lamps may raise issues relating to intensity, headlamp/daytime running lamp spacing, and aspect ratio because this technology may result in unique and creative lamp shapes and design variations that influence the efficacy of signal lamps. For example, Standard No. 108 does not specify an aspect ratio for stop lamps. As an example, although a CHMSL must have an effective projected luminous lens area of not less than 4½ square inches, the requirement can be met by both a rectangular lens of 2 inches by 2½ inches and one of 10 inches by .45 inch because Standard No. 108 contains no limitations on signal lamp length or height.

Because the efficacy of long arc technology for signal lamps is still being researched, NHTSA will propose no changes at this time, and will seek further information on the issues of lamp spacing, effective luminous lens area, aspect ratio between lamps, appropriate photometric requirements, and interchangeability. It may also be necessary to obtain information from manufacturers regarding the operating voltage of an arc lamp source as used on a motor vehicle. This would be for the purpose of providing a source voltage equivalent to the design voltage that is required for compliance testing purposes if NHTSA decided to perform testing without the system's original ballast.

Short arc discharge headlamp systems are commonly referred to as ''high intensity discharge'' (HID) systems. Presently, the only HID application in production for lamps covered by Standard No. 108 is in headlamps, and the only way HID headlamps can be used under the standard is in an ''integral beam headlighting system'' (Section S7.4). Thus, today, HID headlamps are comprised of a headlamp body (including reflector and lens), a small transparent envelope containing a specific mixture of gases under high pressure (the discharge bulb), and an electronic ballast to convert low voltage direct current to a controlled output high voltage direct or alternating current to drive the discharge bulb.

However, by definition (S4), an integral beam headlamp (including those with HID light sources) is one with an ''integral and indivisible optical assembly'', and a headlamp that is ''not a replaceable bulb headlamp * * *.'' In the event of damage to one component, such as the lens, the entire unit, ballast

and all, must be replaced. The cost to replace an integral beam HID headlamp is going to be substantially higher than the cost of replacing a more conventional headlamp. Ford, Stanley, AAMA, GM, and State Farm suggested that NHTSA could facilitate the introduction and acceptance of HID headlamp technology by redefining them as ''replaceable bulb headlamps'' so that components could be individually replaced.

NHTSA concurs with these comments. There is no safety reason why HIDs can't be used as replaceable bulb headlamps. Manufacturers chose an integral-type design for the initial HID headlamps as a result of NHTSA-initiated amendments to accommodate them and facilitate their introduction. At that time, around 1992, the most expeditious manner was through the modification of the definition for integral beam headlamps, and the addition of combination headlighting systems. NHTSA did not know how to define HID sources as ''replaceable light sources.''

GE espoused a contrary position. It finds the relationship between the ballast device for an HID headlamp and the arc source itself to be complex and intricate. As more requirements (e.g., instant start, long life, color control) are placed on the system, the complexity of the ballast, electronics, and light projection system increase by an order of magnitude. Given the present state of arc source technology, GE commented that the industry must further define performance and other enhancements for a ''short arc'' headlamp and ballast before rulemaking for a non-integral system is initiated. Without a firm industry agreement on basic system requirements, GE concludes that specification of the individual parts and their respective allowable contribution to system requirements is impossible.

However, contrary to GE's argument, Ford presented a regulatory scheme with specific suggested amendments to both Standard No. 108 and the replaceable bulb information regulation, part 564, the effect of which would be to allow use of HIDs as replaceable headlamp light sources in a manner which accommodates GE's concern. NHTSA has reviewed this in great detail, and tentatively concludes that it, for the most part, sets forth a realistic way in which to treat HIDs as replaceable light headlamp light sources. Therefore, the following discussion is based upon Ford's specific suggestions, the European regulatory practice for HID headlamp sight sources, and NHTSA's responses.

Proposed Amendments to Standard No. 108

S4 *Definitions.* A ''replaceable light source'' is defined as ''an assembly consisting of a capsule, base, and terminals that is designed to conform to the requirements of paragraph S7.7'' of Standard No. 108. Ford would amend the definition to include the phrase ''separable ballast, if required.'' Because HID headlamps, unlike conventional replaceable bulb units, are operable through ballasts, Ford believes that such an amendment would clearly indicate that HIDs come under the definition of ''replaceable light source.'' However, where the ballast is separable and physically located away from the headlamp housing, it would not be part of an ''assembly'' of ''capsule, base, and terminals,'' as the term ''assembly'' is understood. NHTSA has tentatively concluded that there is a better approach, comprised of two parts. The first is to retain the existing definition and propose amendments of paragraph S7.7 pertinent to HID light sources, thus tying it in with the definition of ''replaceable light source'', as quoted above. The second is to propose an amendment of part 564 which would allow the submittal of ballast information to Docket No. 93–11. Section IX of Part 564 appears an appropriate place for the listing of other dimensions or performance specifications necessary for light sources and ballast interchangeability purposes that are not listed in other places within appendix A. For this reason also, an HID assembly would be a ''replaceable light source.''

S5.5.8 This paragraph specifies, in part, that in an integral beam headlighting system meeting integral beam headlighting photometrics, the lower beam headlamps shall be wired to remain permanently activated when the upper beam headlamps are activated. Ford would add lower beam headlamps ''incorporating non-filament light sources'' and meeting replaceable bulb headlighting photometrics.

NHTSA believes that this approach would unnecessarily discriminate between filament and non-filament light sources, and that adopting the definition of ''filament'' shown below would supersede the need to specify ''non-filament light sources''. This means that an amendment of S5.5.8 would not be needed as Figure 15 already specifically allows the lower beam headlamps of four-lamp replaceable light source headlamp systems to remain activated when the upper beams are operated. Although Figure 17 is silent on the point, this silence has the effect of not specifying how the lower or upper beam is generated by the headlamp. Thus, the lower beams of two-lamp replaceable light source headlamp systems can remain activated when the upper beams are selected.

The definition that appears appropriate to NHTSA is:

''*Filament*'' means that part of the light source or light emitting element(s), such as a resistive element, the excited portion of a specific mixture of gases under pressure, or any part of other energy conversion sources, that generates radiant energy which can be seen.

S7.5(e)(3)(ii). This relates to headlamp systems comprised of four replaceable bulb headlamps. Ford's recommended revision to this paragraph would limit how replaceable light source headlamps may produce the upper beam, as it would require the HID lower beam to remain on when the upper beam is selected. While this is what proposed changes to European law may require and indeed may be what most manufacturers would choose to do, Standard No. 108 presently permits the lower beam to remain on when the upper beam is used, but does not require it. The reason that a manufacturer might choose to leave the lower beam HID source on is that it is technically complex and expensive to design HIDs that, if extinguished, will quickly re-arc after being extinguished during beam switching. If the HID had difficulty reestablishing an arc after switching from the upper beam, the headlamp would not produce light, a high risk situation, even if possibly a transient one. Given the liabilities inherent in such an instance, NHTSA anticipates that manufacturers will provide systems in which an HID lower beam remains activated during upper beam use.

Because S7.5(e)(3)(ii) allows the manufacturer of a vehicle with replaceable bulb headlamp systems a choice of whether or not to extinguish the lower beam while the upper beam is activated, it provides maximum flexibility for designers of replaceable bulb headlamp systems, whether or not they incorporate lower beam HIDs. NHTSA believes that as long as an HID headlamp complies with applicable photometric requirements, it should be allowed to use present headlamp configurations without restriction.

New paragraph S7.5(e)(3)(iii). Ford would add a new paragraph S7.5(e)(3)(iii) relating to four lamp replaceable bulb headlamp systems to read:

The upper beam of a headlamp system whose lower beam headlamps are equipped

with non-filament type replaceable light sources shall be produced by all four headlamps, designed to conform to the upper beam requirements of Figure 15A.

This paragraph would limit how HID light source headlamps could be used in a system with non-HID replaceable light source types in the same way as Ford's suggested revisions to S7.5(e)(3)(ii). For this reason, NHTSA disagrees with this suggestion.

In addition, Ford's suggested paragraph would permit the use of a headlamp whose performance is not specified by Standard No. 108. This could occur because Ford would require that the ''upper beam'' be produced by all four headlamps and that the ''beam'' (not the headlamp) be designed to conform to the requirements of Figure 15A. Requiring the ''beam'' from all four headlamps to meet the photometric requirements of Figure 15A is quite different from the current requirement that the upper beam headlamp system independently meet Figure 15A. Because Ford's suggestion does not specify the apportionment of photometry between the headlamps necessary to produce the ''beam'', it would appear to restrict the replacement market to original equipment manufacturers, as well as potentially allowing replacement headlamps with inadequate illumination or disabling glare. Hence, NHTSA is not proposing Ford's suggested paragraph.

Paragraph S7.7(g). This paragraph requires replaceable light sources to be designed to conform to the information on file in part 564. Ford would modify the phrase ''replaceable light source'' by adding after it ''in conjunction with its ballast, if any is specified in part 564 for its operation.'' NHTSA does not believe that an amendment is required. The ballast information will be part of the information on file in part 564 and no specific reference to it is needed.

Paragraph S7.7(h). This paragraph requires marking of replaceable light sources in specified ways. Ford would add eight specific requirements for ballast marking: name or logo of the ballast manufacturer, the ballast part number or other unique identifier, the part number or other unique identification of the non-filament type light source for which the ballast is designed, identification of the designated Part 564 discharge sources that the ballast is designed to power, and the rated laboratory life of the ballast/discharge bulb combination for each bulb so identified, shock hazard warning (see discussion below), watts and voltage information, the date of manufacture, and the DOT symbol.

NHTSA agrees with this suggestion, but is proposing a new section S7.7(l) for ballast alone. With one exception, it is consistent with the existing requirement for replaceable light sources. That exception is the identification and documentation of rated laboratory life. With respect to other replaceable light sources, NHTSA has previously decided that requiring this information is an unjustifiable and unnecessary burden. However, the advent of HID technology has caused NHTSA to rethink this issue as it relates to Ford's suggestion for reasons to be explained below in the discussion of proposed amendments to part 564.

Paragraph S7.7(i). This paragraph relates to seasoning of the filament of a replaceable light source before measurement of maximum power and luminous flux. Consistent with its earlier recommendations, Ford would add ''filament type'' before ''replaceable light source.'' Since the seasoning procedures are different for filament type and arc type light sources, NHTSA agrees that there is a distinction. However, because of the definition of filament that has been proposed, NHTSA is proposing to revise S7.7(i) to apply to the seasoning of ''a replaceable light source'' rather than to ''the filament.'' This would be followed by two new subparagraphs, S7.7(i)(1), which would apply to light sources with resistive element type filaments, and S7.7(i)(2), which would apply to light sources using excited gas mixtures as filaments. This also accords with recommendations made by Ford. As for seasoning of light sources using ''other energy conversion sources'', NHTSA solicits comments on what these sources might be and the procedure that would be appropriate for their seasoning. Comments should also address an alternative to S7.7.(i) for ''other energy conversion sources'' of including seasoning information as an item of information in appendix B.

The reader should note that, under NHTSA's published proposal to transfer HB type light sources to part 564 (60 FR 14247, March 16, 1995), paragraph S7.7(i) would become paragraph S7.7(b), with no substantive change in it. For the same reason, proposed new paragraph S7.7(l) would be adopted as paragraph S7.7(d).

S8 Tests and Procedures for Integral Beam and Replaceable Bulb Headlighting Systems. Ford would add ''Ballasts required to operate non-filament type light sources shall be included in the tests specified'' in S8. NHTSA concurs but, in its proposal, has substituted ''specific gas mixture'' for ''non-filament type.''

Other Issues Associated with Short Arc Discharge Lighting Systems. Two other issues associated with HID headlamp light source use are electrical shock resulting from contact with the high voltages used to energize the light source, and potential health hazards resulting from ultraviolet (UV) radiation.

Severe electrical shock is a potential hazard because of the high voltage generated by the HID system ballast. A voltage that is higher than that which is normally produced by the motor vehicle's standard battery is necessary to operate an HID system. NHTSA believes that manufacturers will design appropriate levels of safety into their HID systems because of competitive market pressures and product liability concerns. For this reason, the only regulatory requirement that NHTSA is proposing that addresses this issue is the marking of the ballast with an appropriate warning.

Because HID light sources produce UV energy, there is the potential for damage to ocular tissues and skin from radiation in the spectral region between 200 and 400 nm. Exposure could arise from a defect in the system or as a result of a crash and damage to it. Exposure could also occur in the course of headlamp repair. At the present time, it appears likely that the plastic lenses on HID headlamps will filter UV energy, that they will be given a protective coating that will minimize UV emission during normal operation, or that UV filters integral to the HID light source envelope will be used. Thus, there appears no need to regulate. However, NHTSA intends to monitor the issue and will propose rulemaking if it appears required for health and safety.

Proposed Amendments to Part 564

General. Ford would replace all references to ''filament'' with ''filament or discharge arc.'' However, this is unnecessary. If NHTSA adopts the definition of ''filament'' that has been proposed to be added to Standard No. 108, it will apply to part 564 under § 564.4 which incorporates definitions used in other regulations.

Section IX of appendix A. Ford would add the word ''Identification'' to the text. NHTSA concurs. If a ballast is required for operation, Section IX would also require a manufacturer to provide a complete listing of the requirements and parameters between the light source and ballast, and ballast and the vehicle.

Proposed appendix B. The purpose of Appendix A of part 564 is to ensure that aftermarket replaceable light sources are interchangeable with their original equipment counterparts so that they

may be easily replaced. But the importance of interchangeability diminishes but is not eliminated if the life of the light source is such that it approaches the life of the lens reflector unit in which it is installed. Manufacturers expect this to be for the life of the vehicle. This is a chief feature of HID light sources. Thus, NHTSA might be wiling to accept rated average laboratory life information demonstrating long life as a tradeoff for detailed interchangeability information such as dimensions relating to the interface of the light source to the ballast.[1]

To explain, barring damage, a lens reflector unit ought to last the life of a motor vehicle because of its certification of conformance to the environmental test requirements set out in Standard No. 108. The task, then, is to design a light source with an equivalent life expectancy. Although industry views 10 years as the average life of a vehicle, it is not uncommon to see in daily service those that are from 10 to 15 years old. NHTSA believes that non-HID light sources used in today's headlamps have a rated average laboratory life of 300 to 500 hours. Thus, one with a minimum rated life of 2,000 hours represents a four-fold to six-fold plus increase in the life of a headlamp light source. Use of such a light source would significantly reduce the need to replace headlamp light sources over the life of a vehicle.

This trade off could be accomplished by adding appendix B to part 564, to serve as a repository for information on long-life light sources. To NHTSA, a long-life light source is one with a rated average laboratory life of not less than 2,000 hours. This figure represents the design target that industry uses today in developing long-life light sources, and has been provided to NHTSA in industry comments on related rulemakings. The manufacturer of such a light source would provide the lesser amount of information that would be required by appendix B, but, at its option, could make its submission under appendix A. The reader is reminded that, in either event, a replaceable light source which is the subject of information submitted to Docket No. 93–11 is required to comply with Standard No. 108.

To conform part 564 to this view, NHTSA would amend § 564.2 *Purpose* to clarify that the existing purpose applies to appendix A, and that a new one would apply to appendix B. Language relating to rated average laboratory life would be added where appropriate to implement the purpose of appendix B.

The reader should note that the proposed conforming amendments to § 564.5 (a) and (c) reflect the agency's recent proposal to amend paragraph S7.7 of Standard No. 108 and § 564.5 (a) and (c) to transfer HB type replaceable light sources to Docket No. 93–11 (60 FR 14247).

II. LEDs and Miniature Halogen Bulbs

The reader is referred to the NPRM for a full discussion of the issues raised by NHTSA. Because the agency has decided to terminate rulemaking on light-emitting diodes (LEDs) and miniature halogen bulbs for the reasons discussed below, it is also deferring any extended published analysis of the comments received on these issues until such time as it may decide to reinitiate rulemaking on this topic.

NHTSA asked for recommendations as to how it might specify a means of determining the number of ''equivalent'' compartments for lamps equipped with LEDs. AAMA, Ford, and GM thought it premature for the agency to specify unique requirements for lamps equipped with distributive light sources until studies can be completed to assess concerns regarding possible perceptions with respect to brightness. These studies, in AAMA's estimate, would take six months to a year. During that time, its member companies could gather data on intensity, brightness and dimensional features (e.g., aspect ratio) of signal and marking lamps of recent model vehicles. Similar comments came from Ford and GM. Other commenters did not reach a consensus on whether SAE J1889 would be an appropriate specification for LEDs.

Based upon these comments, NHTSA has concluded that there is a great amount of uncertainty within the lighting community about the best method of regulating the photometric requirements of non-traditional light sources for signal and marking lamps. In view of these uncertainties and a lack of consensus among the commenters on methods of equivalent compartmentalization, NHTSA has decided not to pursue further rulemaking at this time. For this reason, it is appropriate also not to pursue the issue of test methods for LEDs and miniature type light sources. However, the docket will remain open to accept comments about these issues, and NHTSA may reinitiate rulemaking at a time when a more definite outcome appears feasible.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Effective Date

Since the final rule would not impose any additional burden and is intended to afford an alternative to existing requirements, it is hereby tentatively found that an effective date earlier than 180 days after issuance of the final rule is in the public interest. The final rule

[1] A manufacturer ''rates'' the design ''life'' of a light source by ''laboratory'' tests of a large number of units that are activated under identical and ideal test conditions of temperature, humidity, lack of vibration, etc. When the test sources have been run to burn out, the manufacturer takes the total time data and determines the ''average'' in hours.

would be effective 30 days after its publication in the **Federal Register**.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action would be to allow an alternative headlighting system. It would not impose any additional burden upon any person. A final rule based on such an action would reduce costs both to manufacturers and consumers. Because ballasts would no longer have to be integral with the light source, manufacturers could use a simpler, less expensive connector. Consumers could replace separate elements of an HID-replaceable light source headlamp system as compared with the present regulation which requires replacement of the whole unit. Impacts of the rule are, therefore, so minimal as not to warrant preparation of a full regulatory evaluation.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities. Motor vehicle and lighting equipment manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected as the price of new motor vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on ''Federalism.'' It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action would not have a significant effect upon the environment as it does not affect the present method of manufacturing motor vehicle lighting equipment.

Civil Justice Reform

This rulemaking action would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Under 49 U.S.C. 30163, a procedure is set forth for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with part 564 have been approved by the Office and Management and Budget in accordance with 44 U.S.C. chapter 35. The OMB control number is 2127–0563.

List of Subjects in 49 CFR Parts 564 and 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 564 be amended as follows:

PART 564—REPLACEABLE LIGHT SOURCE INFORMATION

1. The authority citation for part 564 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

2. Part 564 would be amended by revising paragraphs 564.1, 564.2, 564.5(a), (b), (c) and (d)(1), and Section IX of appendix A, and by adding new appendix B, to read as follows:

§ 564.1 Scope.

This part requires the submission of dimensional, electrical specification, and marking/designation information, as specified in Appendix A and Appendix B of this part, for original equipment replaceable light sources used in motor vehicle headlighting systems.

§ 564.2 Purposes.

The purposes of this part are achieved through its Appendices:

(a) The purpose of Appendix A of this part is to ensure the availability to replacement light source manufacturers of the manufacturing specifications of original equipment light sources and thus ensure that replacement light sources are interchangeable with original equipment light sources and provide equivalent performance.

(b) The purpose of Appendix B of this part is to ensure that original equipment light sources are replaceable and that replacement light source equipment provide equivalent performance, and that redesignated or newly developed light sources are designated as distinct and different and noninterchangeable with previously existing light sources.

§ 564.5 Information filing; agency processing of filings.

(a) Each manufacturer of a motor vehicle, original equipment headlamp, or original equipment headlamp replaceable light source, which intends to manufacture a replaceable light source as original equipment or to incorporate a replaceable light source in its headlamps or motor vehicles, shall furnish the information specified in appendix A or appendix B of this part to: Associate Administrator for Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590. Attn: *Replaceable Light Source Information* Docket No. 93–11 (unless the agency has already filed such information in Docket No. 93–11). If the rated average laboratory life of the light source is not less than 2,000 hours, the manufacturer may furnish the information specified in either Appendix A or Appendix B of this part.

(b) The manufacturer shall submit such information not later than 60 days before it intends to begin the manufacture of the replaceable light source to which the information applies, or to incorporate the light source into a headlamp or motor vehicle of its manufacture. Each submission shall consist of one original set of information and 10 legible reproduced copies, all on 8½ by 11-inch paper.

(c) The Associate Administrator promptly reviews each submission and informs the manufacturer not later than 30 days after its receipt whether the submission has been accepted. Upon acceptance, the Associate Administrator files the information in Docket No. 93–11. The Associate Administrator does not accept any submission that does not contain all the information specified in appendix A or appendix B of this part, or whose accompanying information indicates that any new light source which is the subject of a submission is interchangeable with any replaceable light source for which the agency has previously filed information in Docket No. 93–11.

(d) A manufacturer may request modification of a light source for which information has previously been filed in Docket No. 93–11, and the submission shall be processed in the manner provided by paragraph 564.5(c). A request for modification shall contain the following:

(1) All the information specified in appendix A or appendix B of this part that is relevant to the modification requested, * * *

* * * * *

Appendix A—Information To Be Submitted for Replaceable Light Sources

* * * * *

IX. All other information, dimensions or performance specifications necessary for interchangeability purposes not listed above. If a ballast is required for operation, a complete listing of the requirements and parameters between the light source and ballast, and ballast and the vehicle shall also be provided.

Appendix B—Information To Be Submitted for Long Life Replaceable Light Sources of Limited Definition

I. Bulb Base Interchangeability Dimensions and Tolerance.

A. Angular locations, diameters, key/keyway sizes, and any other interchangeability dimensions for indexing the bulb base in the bulb holder.

B. Diameter, width, depth, and surface finish of seal groove, surface, or other pertinent sealing features.

C. Diameter of the bulb base at the interface of the base and its perpendicular reference surface.

D. Dimensions of features related to retention of the bulb base in the bulb holder such as tabs, keys, keyways, surface, etc.

II. Bulb Holder Interchangeability Dimensions and Tolerances.

A. Mating angular locations, diameters, key/keyway sizes, any other interchangeability dimensions for indexing the bulb base in the bulb holder.

B. Mating diameter, width, depth, and surface, or other pertinent sealing features.

C. Mating diameter of the bulb holder at the interface of the bulb base aperture and its perpendicular reference surface.

D. Mating dimensions of features related to retention of the bulb base in the bulb holder such as tabs, keys, keyways, surface, etc.

III. Electrical Specifications for Each Light Source that Operates with a Ballast and Rated Life of the Light Source/Ballast Combination.

A. Maximum power (in watts).

B. Luminous Flux (in lumens)

C. Rated average laboratory life of the light source/ballast combination (not less than 2,000 hours).

IV. Applicable to light sources that operate with a source voltage other than 12.8 volts direct current, and when a proprietary ballast must be used with the light source.

A. Manufacturer's part number for the ballast.

B. Any other characteristics necessary for system operation.

V. Bulb Markings/Designation—ANSI Number, ECE Identifier, Manufacturer's Part Number, Individual or in Any Combination.

VI. All other identification, dimensions or performance specifications necessary for replaceability or systems operation not listed above.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 would be amended by:

(a) Adding a definition in alphabetical order to section 54 and revising paragraph S7.7(i) to read as set forth below,

(b) Adding new paragraph S7.7(l) to read as set forth below, and

(c) Revising section S8 to read as set forth below:

§ 571.108 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment.

* * * * *

Filament means that part of the light source or light emitting element(s), such as a resistive element, the excited portion of a specific mixture of gases under pressure, or any part of other energy conversion sources, that generates radiant energy which can be seen.

* * * * *

S7.7 * * *

* * * * *

(i) A replaceable light source shall be seasoned before measurement of luminous flux as follows:

(1) For a light source with a resistive element type filament, the filament shall be seasoned before measurement of maximum power and luminous flux. Such measurement shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be design voltage, 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed on Type HB1, Type HB2, Type HB4, and Type HB5, and on any other replaceable light source so designed, and shall be made with the electrical conductor and light source base shrouded with an opaque white colored cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the Types HB3 and HB4 shall be with the base covered with a white cover shown in Figures 19–l and 20–l. The white covers are used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low.

(2) For a light source using excited gas mixtures as a filament, measurement of maximum power and luminous flux shall be made following seasoning of the light source, including any ballast required for its operation, in accordance with section 4.0 of SAE J2009 FEB93. A test voltage of 12.8 volts DC shall be applied to the ballast input terminals. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed if so designed, and shall be made with any electrical conductors and the light source base shrouded with an opaque white colored cover, except for the portion normally located within the interior of the lamp housing.

* * * * *

(l) If a ballast is required for operation, each ballast shall bear the following permanent markings:

(1) Name or logo of ballast manufacturer;

(2) Ballast part number or unique identification;

(3) Part number or other unique identification of the light source for which the ballast is designed;

(4) Rated average laboratory life of the light source/ballast combination, if the information for the light source has been filed in appendix B of part 564 of this chapter;

(5) A warning that ballast output voltage presents the potential for severe electrical shock that could lead to permanent injury or death;

(6) Ballast output power in watts and output voltage in rms volts AC or DC;

(7) The date of manufacture; and ,

(8) The symbol 'DOT'.''

* * * * *

S8 *Tests and Procedures for Integral Beam and Replaceable Bulb Headlighting Systems.* When tested in accordance with the following procedures, each integral beam headlamp shall meet the requirements

of paragraph S7.4, and each replaceable bulb headlamp shall meet the requirements of paragraph S7.5. Ballasts required to operate specific gas mixture light sources shall be included in the tests specified in paragraphs S8.1 and S8.4 though S8.7.

* * * * *

Issued on: June 13, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–14847 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

[Docket No. 95–42; Notice 1]

RIN 2127–AF67

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies; Child Restraint Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to delete the colorfastness requirements for seat belt assemblies. The purpose of those requirements is to ensure that motorists are not discouraged from using safety belts out of a concern that the belts will transfer their coloring to motorists' clothing. NHTSA tentatively concludes that manufacturer concerns about public acceptance are sufficient by themselves to ensure that manufacturers will make their belts colorfast. Therefore, retention of the requirements is not necessary.

DATES: *Comment Dates:* Comments must be received by August 18, 1995.

Proposed Effective Date: If adopted, the proposed amendments would become effective 30 days following publication of the final rule.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Clarke B. Harper, Office of Vehicle Safety Standards, NPS–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–4916.

SUPPLEMENTARY INFORMATION: Pursuant to the March 4, 1995 directive, ''Regulatory Reinvention Initiative,'' from the President to the heads of departments and agencies, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency identified several requirements and regulations that are potential candidates for rescission, including the colorfastness requirements in Standard No. 209, ''Seat Belt Assemblies.''

Standard No. 209 includes colorfastness requirements out of concern that occupants would be less likely to wear their seat belt if the webbing stained their clothing. Paragraphs S4.2 (g) and (h) of the Standard require seat belt webbing to resist transferring color to a wet or dry crock cloth and to resist staining (the colorfastness requirements). Test procedures to determine that the colorfastness requirements are met are found in S5.1 (g) and (h) of the Standard.

NHTSA tentatively concludes that market forces would be sufficient, in the absence of the current requirements, to encourage seat belt manufacturers to use webbing that will not stain clothing. The agency is not aware of any basis for believing that rescission of the colorfastness requirements would lessen colorfastness or safety. Therefore, NHTSA is proposing to delete the colorfastness requirements from Standard No. 209. NHTSA is also proposing to delete references to these requirements in Standard No. 213, ''Child Restraint Systems.''

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures. NHTSA believes that there would be no gain or loss of safety benefits from Standards Nos. 209 and 213 as a result of rescission of the colorfastness requirements. Manufacturers may have a very minor cost savings (approximately $50 per test) as they will no longer have to certify compliance with these requirements.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate that this proposal will significantly economically impact small manufacturers, or small entities that purchase safety belts or vehicles.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including

purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.209 [Amended]

2. Section 571.209 would be amended by removing S4.2(g), S4.2(h), S5.1(g) and S5.1(h).

3. Section 571.213 would be amended by revising S5.4.1(b) to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.4.1 * * *

(b) Meet the requirements of S4.2 (e) and (f) of FMVSS No. 209 (§ 571.209); and

* * * * *

Issued on: June 14, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–14901 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–59–P

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49 CFR Part 571

[Docket No. 95–48; Notice 1]

RIN 2127–AF71

Federal Motor Vehicle Safety Standards; Wheel Nuts, Wheel Discs, and Hub Caps

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

ACTION: Notice of proposed rulemaking.

SUMMARY: NHTSA proposes to rescind Federal Motor Vehicle Safety Standard No. 211, *Wheel Nuts, Wheel Discs, and Hub Caps.* This proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative to remove unnecessary regulations. The agency has tentatively concluded that Standard No. 211 is unnecessarily design-restrictive. Moreover, to the extent that there are safety concerns in this area, the agency believes they are more appropriately addressed by State laws concerning vehicle use than by a Federal motor vehicle safety standard.

DATES: Comments must be received on or before August 3, 1995.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Gill, Office of Vehicle Safety Standards, Office of Rulemaking, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Gill's telephone number is (202) 366–6651. The FAX number is (202) 366–4329.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive ''Regulatory Reinvention Initiative'' from the President to the heads of departments and agencies, NHTSA has undertaken a review of its regulations and directives. During the course of this review, NHTSA identified certain regulations that could be rescinded as unnecessary. Among these regulations is Federal Motor Vehicle Safety Standard No. 211, *Wheel Nuts, Wheel Discs, and Hub Caps* (49 CFR 571.211). After a background review, NHTSA explains why it believes Standard No. 211 is unnecessary, and thus proposes to rescind the Standard.

Background

Standard No. 211 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards. Since Standard No. 211 applies to motor vehicles and motor vehicle equipment, both vehicle manufacturers and manufacturers of motor vehicle equipment must meet the requirements of Standard No. 211. For many years, Standard No. 211 prohibited all wheel nuts, wheel discs, and hub caps (referred to generically hereafter as ''hub caps'') that incorporate ''winged projections,'' based on a concern that such projections can pose a hazard to pedestrians and cyclists.

On January 15, 1993, NHTSA published in the **Federal Register** (58 FR 4582) a final rule amending Standard No. 211 to permit ''winged projections'' on hub caps if, when installed on a wheel rim, the projections do not extend beyond the plane of the wheel rim. NHTSA amended Standard No. 211 after concluding that ''winged projections'' that do not extend beyond the plane on hub caps do not compromise pedestrian or cyclist safety. Persons who are interested in a more detailed explanation for that conclusion are referred to the January 1993 final rule and the preceding notice of proposed rulemaking (57 FR 24207, June 8, 1992).

The rulemaking which culminated in the January 1993 amendment was initiated in response to a petition submitted by several hub cap manufacturers. After the amendment was published, however, NHTSA received information indicating that the amendment did not provide the regulatory relief that had been requested by the petitioners and anticipated by the agency in issuing the amendment.

John Russell Deane III, an attorney representing the petitioners, wrote to express concern about certain language in the preamble to the January 1993 final rule. NHTSA had stated:

> The agency's intent [in the proposed regulatory text] was to prohibit winged hub caps only if, when the hub cap is installed on any wheel rim/axle combination on which the hub cap fits, the projections extend

beyond the plane described in S4. NHTSA chose the language ''physically compatible'' instead of ''designed to fit'' to emphasize that manufacturers must take into consideration not only the specific wheel rim/axle combination(s) on which the hub cap was envisioned or intended to be used, but also any other combinations that the hub cap can fit.

Mr. Deane stated that this preamble language suggests manufacturers may manufacture and distribute hub caps incorporating winged projections only if the manufacturer is sure the product does not fit ''any other combinations'' which would result in the projections extending beyond the plane of the wheel. He noted, however, that decorative knock-off hub caps have a standardized design which consists of a two-inch long hub adapter to which a cap is installed. This design could be installed on any wheels, both deep wheels, on which the winged projections would not extend beyond the plane of the wheel, and shallower wheels on which the projections would extend beyond such plane. Mr. Deane therefore concluded that complying with the preamble's language would be virtually impossible for nearly all manufacturers of these products, and that the practical effect is to continue to prevent the manufacture and distribution of knock-off hub caps.

Mr. Deane believed that the language of the amendment itself did not create this result and requested a letter of clarification. On review, however, NHTSA concluded that the result at issue is a direct consequence of the regulatory language. That text reads as follows:

> *Requirements.* As installed on *any* physically compatible combination of axle and wheel rim, wheel nuts, wheel discs, and hub caps for use on passenger cars and multipurpose passenger vehicles shall not incorporate winged projections that extend beyond the plane that is tangent to the outboard edge of the wheel rim at all points around its circumference. * * * (Emphasis added.)

The usage of the term ''any'' is explained in 49 CFR 571.4 as follows:

> The word ''any,'' used in connection with a range of values or set of items in the requirements, conditions, and procedures of the standards or regulations in this chapter, means generally the totality of the items or values, any one of which may be selected by the Administration for testing, except where clearly specified otherwise.

Therefore, the regulatory language requires that each hub cap with winged projections, as used in each and every *physically compatible* combination of axle and wheel rim, may not be located such that the winged projections extend beyond the plane of the wheel.

NHTSA's Review of Standard No. 211 and Proposal to Rescind

In reviewing Standard No. 211 under the President's directive, NHTSA was thus faced with a regulation that has the practical effect of preventing the manufacture of all hubcaps with winged projections, notwithstanding the fact that the agency has concluded that such hubcaps only pose a safety concern if the winged projections extend beyond the plane of the wheel. NHTSA strongly believes that its safety standards should not be unnecessarily design-restrictive and therefore considered whether the current standard, or any safety standard, is the best means of addressing the safety concern of winged projections that extend beyond the plane of the wheel.

NHTSA has tentatively concluded that this safety concern primarily relates to how hubcaps with winged projections are used, rather than how they are manufactured, and that the issue is therefore more appropriately addressed by the States than by a Federal motor vehicle safety standard. The agency is therefore proposing to rescind Standard No. 211 for reasons discussed below.

First, NHTSA believes that, because of product liability considerations, it is in the interest of vehicle manufacturers not to place unsafe hubcaps, such as those with winged projections extending beyond the plane of the wheel, on their vehicles. Vehicle manufacturers can ensure that winged hub caps are not used in unsafe hub cap/wheel combinations since they can control which combinations are authorized. The relevant safety concern therefore relates to the availability of such hubcaps in the aftermarket.

As discussed above, the regulatory dilemma facing NHTSA is that hubcaps with winged projections that are safe for one vehicle, since the projections do not extend beyond the plane of the wheel, might be unsafe on other vehicles with more shallow wheels. While the agency recognizes that a total ban on hubcaps with winged projections would ensure safety in this area, it would also unnecessarily restrict vehicle and hubcap design.

The agency believes that the solution to this dilemma is to leave the regulation of hubcaps with winged projections to the States. The relevant safety problem is not how such hubcaps are manufactured but instead how they are used; i.e., whether they are placed on vehicles in such a manner that the winged projections extend beyond the plane of the wheel. While NHTSA does not have the authority to regulate the use of vehicles, the States do. Moreover, all States already regulate the use of vehicles and, to the extent that the States determine that regulations are needed in this area, they can issue ones which are not unnecessarily design-restrictive. They can do this by simply prohibiting the installation of a hub cap with winged projections so that the projections extend beyond the plane of the wheel.

NHTSA believes that rescission of Standard No. 211 would not compromise safety. The potential safety problem addressed by the standard has always been a small one. Moreover, the agency believes that, should there be any significant trend toward vehicle owners installing hubcaps with winged projections in a manner that causes injuries to pedestrians, the States could address that problem through their motor vehicle use regulations.

Proposed Effective Date

Because the proposed rescission of Standard No. 211 would relieve restrictions without compromising safety, the agency tentatively has determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the **Federal Register**.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The proposed rule would not impose any costs or yield any significant savings. It would instead relieve a restriction and thereby provide vehicle and equipment manufacturers with greater flexibility in the design and installation of wheel nuts, wheel discs, and hub caps. Moreover, consumers would likely have a greater choice of hub cap styles. For these reasons, the impacts would be so minimal that they would not warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on

a substantial number of small entities. As explained above, the rule would not impose any new requirements but would instead relieve a restriction for hubcaps with winged projections. The proposed rule, if made final, would likely have a small beneficial effect on small manufacturers and dealers of motor vehicle equipment, since they would have greater flexibility in the types of hub caps they may manufacture and sell. Similarly, persons who purchase aftermarket hubcaps would likely have greater choice. For these reasons, small businesses, small organizations and small governmental units which purchase motor vehicles would not be significantly affected by the proposed rule. Accordingly, an initial regulatory flexibility analysis has not been prepared.

3. Executive Order 12612 (Federalism)

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. National Environmental Policy Act

The agency also has analyzed this proposed rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment.

5. Executive Order 12778 (Civil Justice Reform)

The proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, tires.

In consideration of the following, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.211 [Removed]

2. Section 571.211 would be removed.

Issued on: June 14, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–14902 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 646 and 659

[I.D. 060695D]

Shrimp and Calico Scallop Fisheries Off the Southern Atlantic States and the Snapper-Grouper Fishery of the South Atlantic; Public Scoping Meetings and Public Hearing

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

ACTION: Notice of public scoping meetings and public hearing.

SUMMARY: The South Atlantic Fishery Management Council (Council) is holding public scoping meetings to solicit comments on the following issues: Sale of fish caught under the recreational bag limit (all species); Amendment 2 to the Fishery Management Plan (FMP) for the Shrimp Fishery of the South Atlantic Region (Shrimp FMP) dealing with fishery bycatch issues; the development of an FMP for the calico scallop fishery; and the issue of recreational catch and the commercial bycatch of wreckfish under the FMP for the Snapper-Grouper Fishery of the South Atlantic. The Council is also holding a public hearing to solicit comments on management options for Amendment 1 to the Shrimp FMP that would add rock shrimp to the management unit, prohibit shrimp trawling in certain areas, and establish permitting and reporting requirements for this fishery. See the **SUPPLEMENTARY INFORMATION** section for additional information on the hearing and scoping meetings.

DATES: The public scoping meetings are scheduled to begin at 7 p.m. on Monday, June 19, 1995, at Palm Beach Gardens, FL.

The hearing is scheduled to begin at 1:45 p.m. on Thursday, June 22, 1995, at Palm Beach Gardens, FL.

ADDRESSES: The public scoping meetings and public hearing will be held in conjunction with the South

Atlantic Council public meetings at the Palm Beach Gardens Marriott, 4000 RCA Boulevard, Palm Beach Gardens, FL 33410; telephone: (407) 622–8888.

Requests for copies of the public scoping and hearing documents should be sent to the Council at the following address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Sharon Coste (Council staff); telephone: 803–571–4366; fax: 803–769–4520.

SUPPLEMENTARY INFORMATION: A public scoping meeting will be held to solicit comments on the sale of fish caught under the recreational bag limit (all species). The Council has considered this issue on numerous occasions over the past several years, and both commercial and recreational fishermen have expressed concerns about this matter. Currently, all of the Council's FMPs allow for the sale of fish taken under a legal bag limit. The issue regarding the sale of fish caught under bag limits involves several considerations including: (1) The definitions of recreational and commercial fishermen; (2) the ethical question of a ''recreational'' fisherman selling his catch; and (3) the impacts on a commercial quota from selling fish caught under the bag limit. The Council will consider prohibiting the sale of fish by recreational anglers.

The Council will also hold a public scoping meeting to solicit comments on Amendment 2 to the Shrimp FMP to address the issue of finfish bycatch in the shrimp trawl fishery. The Council prepared the Shrimp FMP in 1992 and NMFS approved and implemented it in 1993. At the time the Shrimp FMP was implemented, the Council was concerned about finfish bycatch in the shrimp trawl fishery, and intended to begin developing management measures through an FMP amendment that would reduce bycatch. The Council's goal for bycatch reduction was delayed by the 1990 amendments to the Magnuson Fishery Conservation and Management Act, which mandated a 3-year research program to assess the impacts of shrimp trawl bycatch on fishery resources under management of the Council. The results of this research program have been recently summarized in a NMFS report to Congress titled ''A Report to Congress—Cooperative Research Program Addressing Finfish Bycatch in the Gulf of Mexico and South Atlantic Shrimp Fisheries—April 1995.''

These research results will be considered by the Council as an important basis for any specific management actions. Recent advances in gear development through cooperative efforts between Federal and state governments and the shrimp industry have produced Bycatch Excluder Devices (BRDs) that successfully exclude juvenile fish from shrimp trawls with a minimum of shrimp loss. At its October 1994 meeting in Wrightsville Beach, NC, the Council recommended that NMFS emphasize the development of efficient and effective BRDs in its bycatch reduction research efforts in the South Atlantic; this would provide the Council and the South Atlantic states with expanded options to reduce finfish bycatch in the shrimp trawl fishery. Both the Council and the South Atlantic states have requested that NMFS proceed as rapidly as possible to obtain the research information needed to identify and assess options for requiring the use of BRDs under the Shrimp FMP and under coastal fishery management plans (CFMPs) developed by the Atlantic States Marine Fisheries Commission (Commission), under provisions of the Atlantic Coastal Fisheries Cooperative Management Act of 1993 (Atlantic Coastal Act).

The Council has asked NMFS to conduct a bycatch characterization of the rock shrimp fishery off Cape Canaveral, FL. Concerns still exist relative to the impacts of shrimp bycatch on the Spanish and king mackerel resources. In addition, under the current Amendment 2 to the CFMP for Weakfish, prepared by the Commission under the Atlantic Coastal Act, all South Atlantic states must implement management measures to reduce the bycatch of weakfish in the shrimp trawl fisheries by 50 percent for the 1996 fishing season. Bycatch reduction plans must be submitted to the Commission's Weakfish Technical Committee by October 1, 1995.

The Council is closely coordinating its efforts with the marine resource agencies of the South Atlantic states and has also initiated action on the shrimp trawl bycatch issue by beginning the scoping process on the development of Amendment 2 to the Shrimp FMP. Among several management alternatives under consideration by the Council are the use of BRDs by season and/or area, as well as areal or seasonal closures.

A public scoping meeting will also be held to solicit comments on the development of an FMP for the calico scallop fishery. The Council may consider the following measures as possible management options for this fishery: (1) No action; (2) prohibit calico scallop trawling (trawling) south of 28°30′ N. lat; (3) prohibit trawling south of 28° N. lat.; (4) allow trawling south of Cape Canaveral only with transponders; (5) prohibit trawling west of Oculina Bank; (6) prohibit trawling in depths of less than 120 ft (36.58 m); (7) allow trawling with transponders only from Duval County through St. Lucie County; (8) limit trawling from Duval County through St. Lucie, County; and (9) prohibit trawling south of Cape Canaveral, FL (i.e., south of 28°35.1′ N. lat.).

A scoping meeting will also be held to solicit comments on wreckfish caught by recreational fishermen and the commercial bycatch of wreckfish outside of the Blake Plateau. Amendments 3 and 4 to the Snapper-Grouper FMP established a management program for wreckfish in the South Atlantic region. A framework measure was also included allowing the Council to set total allowable catch (TAC) each year and at the same time consider other options. Amendment 5 to the Snapper-Grouper FMP established an individual transferable quota (ITQ) system in the wreckfish fishery that only allows ITQ shareholders to land and sell wreckfish, and allows only permitted dealers to handle wreckfish and to buy wreckfish from ITQ shareholders. Recently, there have been reports of wreckfish being caught by recreational fishermen fishing primarily for red grouper off Key West, FL, and commercial fishermen, especially off south Florida, observing occasional wreckfish bycatch. These reports do not indicate frequency or poundage of catches, disposition of catches, nor substantial quantities or targeting of wreckfish. The Council is considering the following management options for regulating this fishery: (1) No action (i.e., do not allow the taking or landing of wreckfish in the South Atlantic region except by ITQ shareholders; (2) set a recreational bag limit of 1 or 2 fish per fisherman per trip; (3) set a recreational bag limit of 1 or 2 fish per boat per day; (4) set a recreational bag limit of 1 or 2 fish per boat per trip; (5) set an undetermined recreational bag limit; (6) set a bag limit of 1 or 2 fish per boat per trip for commercial fishermen in the South Atlantic region who are not wreckfish ITQ shareholders; (7) set a bag limit of 1 or 2 fish per boat per day for commercial fishermen in the South Atlantic region who are not wreckfish ITQ shareholders; (8) set a bag limit of 1 or 2 fish per boat per trip for commercial fishermen in the south Florida area who are not wreckfish ITQ shareholders; (9) set a bag limit of 1 to 2 fish per boat per day for commercial fishermen in the south Florida area who

are not wreckfish ITQ shareholders, (10) allow for an undetermined commercial bag limit in the South Atlantic region; and (11) allow for an undetermined commercial bag limit only in the South Florida area.

A final public hearing will be held to solicit comments on management options for Amendment 1 to the Shrimp FMP, which proposes to add rock shrimp to the management unit, prohibit trawling for rock shrimp in designated areas, and implement mandatory permitting and reporting requirements for vessels fishing for, and dealers handling, rock shrimp in the South Atlantic region. In addition, the Council will solicit comments on a mandatory vessel operator license and other management measures to enhance law enforcement that it is considering.

Verbal public comments regarding Shrimp FMP Amendment 1 may be presented at the public hearing and will be considered by the Council prior to taking its intended final action at the June public meeting. Written public comments on the subjects of the scoping meetings, including any Council scoping documents made available to the public, may be submitted to the Council from the time of the scoping meetings until such time as the Council has prepared appropriate and related hearing documents that are available for public comment. For copies of the public scoping and hearing documents, see **ADDRESSES**.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office by June 16, 1995.

For special accommodations regarding the meetings and hearing, contact the Council (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: June 13, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–14827 Filed 6–13–95; 3:27 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 117

Monday, June 19, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on July 17 & 18th at the Hood River Inn in Hood River, Oregon. July 17 will be a field trip to selected watersheds on the Mt. Hood National Forest. July 18 will be a regular business meeting. Start times: July 17: 9:30 am; July 18: 8 am. Agenda items include: (1) Watershed restoration projects in the Deschutes Province; (2) Forest health in the Province; (3) A briefing on the Eastside Ecosystem Project; (4) An update on Resource Advisory Committees; and (5) Open public forum. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Harry Hoogesteger, Province Liaison, USDA, Fort Rock Ranger District, 1230 N.E. 3rd, Bend, Oregon 97701, 503–383–4704.

Dated: June 14, 1995.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 95–14869 Filed 6–16–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–549–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom; Initiation of Antidumping Duty Administrative Reviews and Notice of Request for Revocation of an Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping duty administrative reviews and notice of request for revocation of order.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom. In accordance with the Commerce regulations, we are initiating those administrative reviews. The review period is May 1, 1994, through April 30, 1995. We have also received a request to revoke the order covering ball bearings and parts thereof from Thailand with respect to NMB/Pelmec, the only known producer/exporter of this merchandise from Thailand.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Director, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington D.C. 20230; telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with sections 353.22(a)(1), (2), and (3) of the Department's regulations, for administrative reviews of the antidumping duty orders covering antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom. The orders cover three classes or kinds of merchandise: ball bearings (ball), cylindrical roller bearings (cylindrical), and spherical plain bearings (spherical). Pursuant to section 353.25 of our regulations, NMB/Pelmec has requested revocation of the order covering ball bearings and parts thereof from Thailand. NMB/Pelmec is the only known producer/exporter of this merchandise from Thailand. NMB/Pelmec based its request on its claim that there has been an absence of dumping on sales of the above subject merchandise for a period of three consecutive years.

Initiation of Reviews

In accordance with section 353.22(c) of our regulations, we are initiating administrative reviews of the following antidumping duty orders. We intend to issue the final results of these reviews no later than May 31, 1996.

Proceedings and firms	Class or kind
France A–427–801:	
Franke GmbH	Ball.
Hoesch Rothe-Erde AG	Ball.
Intertechnique	All.
Rollix Defontaine, S.A	Ball.
SKF France (including all relevant affiliates)	All.
SNFA	Ball & Cylindrical.
Societe Nouvelle de Roulements (SNR)	All.
Germany A–428–801:	
FAG Kugelfischer Georg Schaefer AG	All.
Fichtel & Sachs AG	Ball.
Franke GmbH	Ball.
Hoesch Rothe Erde AG	Ball.

Proceedings and firms	Class or kind
INA Walzlager Schaeffler KG	All.
NTN Kugellagerfabrik (Deutschland) GmbH	All.
Rollix & Defontaine, S.A	Ball.
SKF GmbH. (including all relevant affiliates)	All.
Torrington Nadellager (Torrington/Kuensebeck)	Ball & Cylindrical.
Italy A–475–801:	
FAG Italia S.p.A. (including all relevant affiliates)	Ball & Cylindrical.
SKF-Industrie S.p.A	Ball.
Japan A–588–804:	
Asahi Seiko	Ball.
Izumoto Seiko Co., Ltd	All.
Jidosha Buhin Kogyo Co., Ltd	Ball.
Koyo Seiko Company, Ltd	All.
Naiico Spicer Co., Ltd	Ball.
Nippon Pillow Block Sales Company, Ltd	All.
Nippon Seiko K.K. (NSK)	All.
Nissan Trading Co., Ltd	Ball.
NTN Corp	All.
Romania A–485–801:	
Tehnoimportexport, S.A	Ball.
Singapore A–559–801:	
NMB Singapore/Pelmec Ind	Ball.
Thailand A–549–801:	
NMB Thai/Pelmec Thai Ltd	Ball.
United Kingdom A–412–801:	
Barden Corporation	Ball.
NSK Bearings Europe, Ltd./RHP Bearings Ltd	Ball & Cylindrical.
Normalair-Garrett Ltd	Ball & Cylindrical.
Hoffmann U.K	Ball & Cylindrical
Rose Bearing Co., Ltd	Ball & Cylindrical.
Timken Bearing Co	Ball & Cylindrical

Interested parties must submit applications for administrative protective orders in accordance with section 353.34(b) of the Department's regulations.

However, due to the large number of parties to this proceeding, we strongly recommend that parties submit their APO applications as soon as possible, and we will process them on a first-come, first-served basis.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c).

Dated: June 12, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–14935 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–357–809]

Notice of Final Determination of Sales at Less than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–6320 or (202) 482–3853.

Final Determination

The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel standard, line, and pressure pipe (seamless pipe) from Argentina is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (1994). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since our preliminary determination on January 19, 1995 (60 FR 5348, January 27, 1994), the following events have occurred.

In response to a request from respondent Siderca S.A.I.C. (Siderca), we postponed the final determination until June 12, 1995, pursuant to section 735(a)(2)(A) of the Act (60 FR 9012, February 16, 1995).

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise. On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

On April, 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status.

On May 5, 1995, respondent submitted its case brief. Petitioner [1] submitted its rebuttal brief on May 15, 1995. In its rebuttal brief, petitioner requested that the Department reject ''substantial portions'' of Siderca's case brief because it allegedly constituted a ''new submission of factual information.'' Siderca objected to this request on May 19, 1995. Petitioner responded to this letter on May 26, 1995. However, we determined that Siderca's case brief did not contain new factual information. (See Comment 1 in the ''Interested Party Comment'' section

[1] All references to ''petitioner'' in this notice include Koppel Steel Corporation.

of this notice.) In addition, on June 1, 1995, the Department returned Siderca's May 19, 1995, letter, as well as petitioner's letter of May 26, 1995, because they constituted unsolicited submissions untimely filed after the briefing period.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5L specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) Whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products,[2] we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States,* 715 F.Supp. 1104 (CIT 1989) (*Ipsco*). In *Ipsco,* the Department had clarified the scope of certain orders, in particular the phrase, ''intended for use in drilling for oil and gas,'' as covering not only API specification OCTG pipe but, '' 'all other pipe with [certain specified] characteristics used in OCTG applications * * *.' '' Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[3] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, *see* June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke, A.G., the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States,* 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) The general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany,* 54 FR 18992, 18998 (May 3, 1989) (''*AFBs from Germany*''); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition,* 57 FR 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[4] While we recognize that carbon and alloy pipe do have some important physical

[2] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela,* 59 FR 1929, January 13, 1994.

[3] This approach is consistent with petitioner's request.

[4] The relevant ASTM specifications, as well as product definitions from other independent sources (*e.g.,* American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from ½ inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[5]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 FR at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 FR at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 FR at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report.* The *Preston Pipe Report,* which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that ''the U.S. market'' recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as ''tubes'') are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of*

[5] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.,* 60 FR 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil,* 58 FR 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 FR 22045 (May 9, 1995).

wall thickness. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 CFR 353.12(a).) Section 771(9)(C) of the Act defines ''interested party,'' *inter alia,* as a producer of the like product. For the reasons outlined in the ''Scope Issues'' section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the ''Case History'' section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time,* and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it ''would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously.'' *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for Siderca, the only named respondent in this investigation. As stated in our notice of preliminary determination, on September 12, 1994, Siderca notified the Department that it would not participate in this investigation. Because Siderca refused to answer the Department's questionnaire, we find that it has not cooperated in this investigation.

In determining what rate to use as BIA, the Department follows a two-tiered BIA methodology, whereby the Department may impose the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding, or assign a lower rate for those respondents who have cooperated in an investigation. The Department's BIA methodology for uncooperative respondents is to assign the higher of the highest margin alleged in the petition or the highest rate calculated for another respondent. The Department's practice for applying BIA to cooperative respondents is to use the higher of the average of the margins alleged in the petition or the calculated

margin for another firm for the same class or kind of merchandise from the same country. *See Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany,* 54 FR 18992, 19033 (May 3, 1989). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied-Signal Aerospace Co.* v. *the United States,* 996 F2d 1185 (Fed Cir. 1993); *see also Krupp Stahl AG. et al* v. *the United States,* 822 F. Supp. 789 (CIT 1993).) Because there are no other respondents in this investigation we are assigning to Siderca, as BIA, the highest margin among the margins alleged in the petition.

Fair Value Comparisons

To determine whether sales of subject merchandise from Germany to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. *See Initiation of Antidumping Duty Investigation of Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy* (59 FR 37025, July 20, 1994).

Interested Party Comments

Comment 1

Petitioner contends that Siderca's submissions of factual information made after its September 12, 1994, letter indicating that it would not participate in the investigation, are untimely. As such, they must be stricken from the record and not considered by the Department in its final determination. In addition, petitioner states that none of the factual information upon which Siderca relies in its case brief has been verified by the Department, which is required under the antidumping statute if it is to be utilized by the Department in making a final determination. Also, petitioner states that some of Siderca's later submissions (*e.g.*, submissions on October 12, 1994, and March 27, 1995) related to standing and class or kind issues did not contain certifications of factual information.

DOC Position

We disagree with petitioner. Despite the fact that Siderca chose not to respond to the Department's questionnaire, and thus not to participate in this investigation, the Department cannot preclude it from commenting as an interested party in this investigation. Furthermore, all of the information contained in Siderca's brief was submitted previously on the record, so that its case brief contained no new factual information. In addition, the omission of certification from earlier submissions was a clerical oversight which was cured without prejudicing petitioner.

Comment 2

Siderca maintains that Gulf States is not a producer of standard, line and pressure pipe between 2.0 and 4.5 inches in outer diameter (OD) and, therefore, lacks standing as an ''interested party'' under section 771(9)(C) of the Act to petition on behalf the U.S. industry which produces this merchandise. Siderca also asserts that the request of Koppel Steel Corporation for co-petitioner status does not remedy Gulf States' lack of standing or cure the petitioner's defects. Consequently, Siderca urges the Department to rescind the initiation of the investigation with respect to seamless pipe in the OD size range between 2.0 and 4.5.

Specifically, respondent states that Gulf States openly admits in the petition that it neither manufactures or sells seamless pipe greater than or equal to 2⅜ inches in OD, and that publicly available evidence shows that Gulf States neither manufactures or sells seamless pipe between 1.9 and 2⅜ inches in OD. Respondent also maintains that Gulf States fails to meet the statutory test for interested party status to file a petition under Section 771(9)(C) of the Act, and has no legally-recognizable stake in the market for pipe greater than 2.0 inches in OD, as provided for in the legislative history of the standing requirement.

Furthermore, Siderca asserts that the ITC's one like product preliminary determination does not change this analysis because the like product determination made by the ITC when it considers the issue of material injury is different from the like product determination made by the Commerce Department when it considers the issue of standing. The Commerce Department is not required to adopt the ITC's like product definition for purposes of determining petitioner's standing. Siderca adds that seamless carbon and alloy pipe is produced in a continuum of sizes at least up to 36 inches in OD; there is no ''bright line'' at any point on that continuum above 2.0 inches, other than a line that may be drawn where the facilities of producers impose physical limitations. Thus, if the Department concludes that a producer of seamless pipe up to 2.0 inches is an interested party with regard to seamless pipe of greater OD, then there is no more of a justification for a producer such as Gulf States to petition on pipe up to 4.5 inches than there is for it to petition up to 36 inches. Once the Department determines that a petitioner is an interested party for sizes beyond its production capability, there is no reason for drawing the line at 4.5 inches or any other point along the continuum.

With respect to Koppel's request for co-petitioner status, respondent states that this request was filed too late (almost 10 months after the June 23, 1994, filing of the petition) to confer legality on the initiation of this proceeding with regard to seamless pipe between 2.0 and 4.5 inches in OD. According to Siderca, this action is unprecedented, and was precipitated by Gulf States' and Koppel's realization that the petition and Department's subsequent initiation are legally deficient with respect to seamless pipe over 2.0 inches. Siderca also points out that all of the information on which the Department relied in making its initiation determination came from Gulf States, not Koppel. If Koppel is not accepted as co-petitioner, the initiation of these investigations with regard to pipe between 2.0 and 4.5 inches in OD must be rescinded because Gulf States is not an interested party with respect to merchandise of this size range.

Siderca also asserts that if the Department does not reject the petition or rescind the initiation with respect to seamless pipe of this size range, it should determine that there are two classes or kinds of merchandise, *i.e.*, 2.0 inches and below; and between 2.0 and 4.5 inches, because these pipe size ranges differ in terms of physical characteristics, purchaser expectations, end use and cost.

Gulf States contends that Siderca's objection to its standing is without merit because: (1) There is no basis in law or in fact for treating pipe larger than 2.0 inches in OD as a separate class or kind of merchandise; and (2) in any event, Gulf States produces pipe in the categories of merchandise proposed by Siderca. Contrary to respondent's claim, petitioner points out that in its March 27, 1995, submission, it provided extensive factual information concerning the stencilling, sale, distribution, and cost of production for all sizes of subject merchandise produced by Gulf States, including seamless pipe larger than 2.0 inches in OD. Therefore, petitioner asserts that even if pipe over 2.0 inches in OD were to constitute a separate class or kind of merchandise, Gulf States would nonetheless have standing as a

petitioner. Additionally, Gulf States maintains that Siderca's claim that Koppel cannot be added as a co-petitioner at the time it made its request on April 27, 1995, is legally incorrect. Citing *Citrosuco Paulista, S.A.* v. *United States* (704 F. Supp. 1075 (CIT 1988)), petitioner asserts that the Department has discretion to permit the amendment of a petition for the purposes of adding co-petitioners who produce the like product, at such time and upon such circumstances as deemed appropriate by the Department.

DOC Position

We agree with petitioner for reasons explained in our section on ''Standing'' in this notice.

Comment 3

Siderca argues that the Department should reject petitioner's end use language in the scope of this investigation which includes products not subject to this investigation if they are used in standard line pipe applications.

Respondent maintains that such an end use requirement would result in a disparate treatment between imported goods that have crossed the border and domestic goods once they are competing in the U.S. marketplace, which is contrary to Article III of the General Agreement on Tariffs and Trade (GATT).

Respondent also argues that if an end use certification program were implemented, it would be virtually unadministerable because importers and producers normally do not know the end use of their product. Moreover, respondent cites the *Oil Country Tubular Goods from Canada* investigation, in which the Department abandoned its end use program after two years, because the program was cumbersome and difficult to administer.

Petitioner states that end use is an appropriate element of the scope and that the Department has included end use has included end use as an element of scope in other investigations. Furthermore, petitioner maintains that because of overlapping properties, it is possible that pipe made to other specifications than A–53, A–106, A–335, and API–5L may be applied to uses for which those specifications are normally used, creating the likelihood of substitution. Petitioner recognizes that defining scope by end use presents more complications for the enforcement of an order, but, for simplification, has suggested that the Department employ a rebuttable presumption that specification is an indication of use for pipe in non-listed specifications. Finally, petitioner counters Siderca's assertion that an end use element in the scope is contrary to GATT by stating that the GATT is not violated unless the country imposing the duties has disregarded its obligations under Article VI of the Antidumping Code; and that Siderca does not allege that any provisions of relevant GATT antidumping law would be violated if the Department, following established U.S. practice continues to consider end use as a scope criterion.

DOC Position

We agree with petitioner for the reasons outlined in the ''Scope Issues'' section of this notice.

Comment 4

Siderca argues that there are two classes or kinds of merchandise: standard line pipe 2.0 inches in outside diameter and below; and between 2.0 and 4.5 inches in outside diameter. Respondent maintains that the criteria articulated in *Diversified Products* support its assertion of two classes of kinds. Specifically, respondent argues that the distinct size differences between steel pipe below 2.0 inches in outside diameter and steel pipe between 2.0 and 4.5 inches are recognized in the industry as differentiating physical characteristics. Respondent maintains that line capacity, operating pressure, temperature, stress level, and structural integrity will determine the size of the pipe, and in turn, will determine the particular application.

With respect to customer expectations, Siderca argues that customers purchase pipe in specific sizes knowing that different sizes have different applications. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe because of the unique characteristics of pipe that size. Moreover, respondent claims that a purchaser will expect pipe above 2.0 inches to be suitable for line pipe applications.

Regarding channels of trade, respondent argues that although pipe below 2.0 inches and pipe between 2.0 and 4.5 inches are sold though distributors, this fact does not make these two groups a single class or kind.

Siderca argues that the ultimate use of the product depends on the size. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe and most pipes between 2.0 and 4.5 inches are sold as line pipe. Furthermore, respondent claims that seamless pipe is almost never used in standard pipe applications.

Respondent contends that the cost of seamless pipe differs significantly depending on size. Respondent states that smaller pipe also costs more to manufacture because it requires more manufacturing time, on a kilogram basis, than larger pipe. Furthermore, respondent maintains that pipe in sizes under 2.0 inches is usually cold-drawn, a more costly process than hot-finishing, which is the most common production process for pipe above 2.0 inches.

Petitioner argues that an analysis of the five factors used in the diversified products analysis supports a single class or kind of merchandise. Regarding the physical characteristics, petitioner argues that seamless standard, line, and pressure pipe each meet the same physical characteristics described in the petition. Petitioner argues that the use of different production facilities to make physically identical merchandise does not constitute a difference in physical characteristics. Petitioner also states the respondent's argument that cold-drawn merchandise (pipe below 2.0 inches) and hot-finished merchandise (pipe above 2.0 inches) indicated two classes or kinds is contrary to the Department's decision not to create separate classes of kinds based on cold-drawn and hot-rolled products in *Stainless Steel Bar from Italy*. Petitioner asserts that respondent's suggestions that end users have different expectations for pipe below 2.0 inches is unfounded. Petitioner contends that the physical characteristics of pipe are set forth in the ASTM and API specifications, which apply to all subject pipe regardless of size. Petitioners contend that the sales subject seamless pipes are made through the same channels of trade. Petitioner maintains that the ultimate end use of the product is largely dictated by the specification to which the pipe is produced. Petitioner argues that since the majority of imported subject pipe is triple certified, the pipe may be put to use in any of the uses that either A–106, A–53, or API 5L may be applied.

Petitioner argues that all subject seamless pipe has sufficiently similar costs to be considered a single class or kind of merchandise. Petitioner contends that since the majority of the subject pipe is triple certified, it has basically identical costs regardless of the customer to whom it is sold and that there are only minimal differences in production costs between pipe over 2.0 inches and pipe under 2.0 inches.

DOC Position

We agree with petitioner for the reasons outlined in the ''Scope Issues'' section of this notice.

Comment 5

In order to eliminate confusion and uncertainty of the scope, respondent argues that the Department should clarify the language of the scope and explicitly exclude products that are not intended to be part of the investigation. Specifically, respondent argues that the Department exclude unfinished oil country tubular goods and tubing products made in non-pipe sizes. Furthermore, respondent contends that language in the scope concerning ''redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube,'' is confusing. Respondent suggests the Department revise this language to simply state that the scope excludes hollows for cold-drawing. This would eliminate confusion, while not changing the intended scope of the exclusion.

Petitioner asserts that a modification of the scope to Siderca's requests would be unsupported by substantial evidence on the record. With respect to OCTG, petitioner notes that the scope explicitly excludes OCTG when it is not used or intended for use in one of the listed applications and that no further clarification is necessary. Petitioner states that tubing in ''non-pipe'' sizes is expressly covered by the scope of the investigation when produced to one of the listed specifications or when used in a listed application. Petitioner maintains that the language in the scope with respect to redraw hollows was included expressly to ensure that hollows are actually cold-drawn and not sold directly as A–106 pipe.

DOC Position

We agree with petitioner for the reasons outlined in the ''Scope Issues'' section of this notice.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Argentina, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of seamless pipe from Argentina that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted average margin percent
Siderca S.A.I.C.	108.13
All Others	108.13

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will makes its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14936 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–351–826]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–6320 or 482–3853, respectively.

Final Determination

The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe from Brazil (seamless pipe) is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the ''Act'') (1994). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the notice of preliminary determination on January 27, 1995 (60 FR 5351, January 27, 1995), the following events have occurred.

On February 10, 1995, we issued a supplemental questionnaire to respondent Mannesmann S.A. (MSA) and its affiliated Brazilian and U.S. sales organizations, Mannesmann Comercial S.A. (MCSA) and Mannesmann Pipe & Steel Corporation (MPS), respectively (collectively ''Mannesmann''), concerning certain items in its December 9, 1994, response, which we deemed required further clarification and/or information prior to verification. On February 28, and March 9, 1995, Mannesmann submitted its responses to this questionnaire, including revised home market and U.S. sales listings.

In response to respondent's request, we postponed the final determination until June 12, 1995, pursuant to section 735(a)(2)(A) of the Act (60 FR 9012, February 16, 1995).

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise. On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

In March and April, 1995, we conducted verification of Mannesmann's questionnaire responses. Our verification reports were issued in May, 1995.

On April 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status, which the Department granted.

Case and rebuttal briefs were submitted on May 19, 1995, and May 25, 1995, respectively. In its rebuttal

brief, petitioner maintained that the Department should not consider certain information in respondent's case brief because it allegedly constituted an ''untimely submission of factual information.'' MSA disagreed with petitioner in a letter submitted on June 5, 1995. However, we determined that MSA's case brief did not contain new factual information. On June 6, 1995, the Department returned MSA's June 5, 1995, letter, because it constituted an unsolicited submission untimely filed after the briefing period.

Because no requests were received from interested parties, we did not hold a public hearing in this proceeding.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These

issues, which are discussed below, are: (A) whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products,[1] we agree with petitioner that if products produced to a non-listed specification (*e.g.,* seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States,* 715 F.Supp. 1104 (CIT 1989) (*Ipsco*). In *Ipsco,* the Department had clarified the scope of certain orders, in particular the phrase, ''intended for use in drilling for oil and gas,'' as covering not only API specification OCTG pipe but, '' 'all other pipe with [certain specified] characteristics used in OCTG applications * * *' '' Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, see June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States,* 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany,* 54 Fed. Reg. 18992, 18998 (May 3, 1989) *(''AFBs from Germany''*); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition,* 57 Fed. Reg. 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela,* 59 FR 1929, January 13, 1994.

[2] This approach is consistent with petitioner's request.

detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in AFBs from Germany, 54 Fed. Reg. at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 Fed. Reg. at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report.* The *Preston Pipe Report,* which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that ''the U.S. market'' recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as ''tubes'') are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, see June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

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[3] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from ½ inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 Fed. Reg. 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 Fed. Reg. 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 Fed. Reg. 22045 (May 9, 1995).

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness.* Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines ''interested party,'' *inter alia,* as a producer of the like product. For the reasons outlined in the ''Scope Issues'' section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the ''Case History'' section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A. v. United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time,* and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it ''would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously.'' *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons, when verified data permitted, on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department.

Fair Value Comparisons

To determine whether Mannesmann's sales of seamless pipe from MSA to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United

States Price'' and ''Foreign Market Value'' sections of this notice.

In accordance with past practice and consistent with our decision in the preliminary determination, we considered Brazil's economy to be hyperinflationary during the POI. Pursuant to our methodology concerning such an economy, we made contemporaneous sales comparisons based on the month of the U.S. sale.

In accordance with 19 CFR 353.58, we made comparisons at the same level of trade. For those U.S. sales where there were no comparable sales at the same level of trade in the home market, we used home market sales at a different level of trade as the basis of our less than fair value comparisons. Based on our analysis of Mannesmann's questionnaire response, we have accepted its claim that MSA's sales from its factory to unrelated customers and its sales through its related distributor MCSA represent two distinct levels of trade. However, because we could not determine that the difference in level of trade affects price comparability, we made no adjustment to FMV. *See* Comment 5 of the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

We also made adjustments for differences-in-merchandise (difmer), where possible, in accordance with 19 CFR 353.57. At verification, we found that respondent's reported variable cost of manufacture data included cost differences not attributable to physical differences in the merchandise. Therefore, we modified the submitted cost data where we had information on the record to eliminate cost differences unrelated to physical differences.

For those products for which difmer cost modification was not possible and those U.S. sales with no comparable home market products and no cost data, we based our analysis, pursuant to section 776(C) of the Act, on the best information available (BIA). As BIA, we used a calculated margin that is sufficiently adverse to fulfill the statutory purpose of the BIA rule. *See* June 12, 1995, *Final Determination Concurrence Memorandum*. *See* also DOC Position to Comment 2 of the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We corrected certain clerical errors found at verification, including: (a) The reported product codes for four products; (b) the reported sales date and end-finish for one transaction; (c) the level of trade reported for one customer; and (d) the reported U.S. duty charges for certain transactions.

2. We revised the reported ocean freight, U.S. brokerage, and U.S. inland freight amounts for certain transactions to reflect actual expenses.

3. We recalculated credit expenses using respondent's revised U.S. shipment dates submitted in the March 9, 1995, response. These dates reflect the approximate date on which the merchandise left the factory.

4. We made a deduction for foreign inland freight charges that were previously not reported in respondent's sales listing.

5. We made a deduction for bank fees paid by MSA for entering into foreign exchange contracts, which had not been reported in respondent's sales listing. *See* Comment 8 of the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

Foreign Market Value

As stated in the preliminary determination, we determined that respondent's home market was viable with respect to sales of seamless pipe during the POI to serve as the basis for FMV.

Based on the results of the Department's related party sales test as set forth in Appendix II of the *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 58 FR 37062 (July 9, 1993), we excluded respondent's related party sales from our analysis, and used only those sales made to unrelated parties.

We calculated FMV according to the methodology described in our preliminary determination with the following exceptions:

1. Where we had verified transaction-specific data on the record, we excluded from our analysis those home market sales that were found to have been returned, and incorrectly included in respondent's sales listing.

2. For both MSA's and MCSA's sales, we revised the reported insurance charges, where appropriate, based on the applicable, verified insurance percentage rates prevailing during the POI.

3. We corrected clerical errors made with respect to the reported interest revenue amounts for two transactions.

4. For MSA's sales, we reduced the reported inland freight charges by the amount by which they exceeded the actual amounts charged by MSA's freight supplier.

5. With respect to MCSA's sales, we corrected the surface treatment codes for those products reported incorrectly as corrosion-resistant.

6. We made no adjustment for inflation value in addition to an adjustment for the reported, verified credit expenses which included an inflation factor. *See* Comment 4 in the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

7. Because the reported U.S. and home market packing expenses did not verify, we used BIA for these expenses. As BIA for home market packing expenses, we used the lowest domestic packing expense noted on the record. As BIA for U.S. packing expenses, we used the highest export packing expense noted on the record. *See* Comment 6 in the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

8. Where possible, we made difmer adjustments based on the submitted cost data, modified to eliminate cost differences unrelated to physical differences between the merchandise being compared. *See* Comment 2 in the ''Company-specific Issues'' sub-section of the ''Interested Party Comments'' section of this notice.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the POI. In place of the official certified rates, we used the daily official exchange rates for the Brazilian currency, as well as the UFIR[5] index, published by the Central Bank of Brazil which were provided by respondent in its February 28, 1995, response and verified by the Department.

Verification

As provided in section 776(b) of the Act, we verified information provided by Mannesmann by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

General Issues

Comment 1

Mannesmann argues that petitioner lacks standing to seek the imposition of antidumping duties on products that it does not produce. According to Mannesmann, petitioner has admitted

[5] The UFIR is an inflationary neutral currency unit.

that it is incapable of manufacturing seamless pipe and tube in dimensions above two inches in outside diameter. Therefore, respondent maintains that petitioner is not an ''interested party'' with respect to this merchandise. Accordingly, the Department should amend the scope of the investigation to limit it only to those dimensions and pipe types that petitioner has a proven ability to manufacture.

Gulf States Tube contends that the antidumping statute neither requires nor permits the Department to limit the scope of the investigation to products that the petitioner itself produces. Gulf States Tube also maintains that respondent's standing claim is untimely and may not be considered by the Department at this stage of the proceeding. Nevertheless, Gulf States Tube asserts that the issue is rendered moot by the request of Koppel Steel Corporation, a domestic producer of subject merchandise in sizes larger than two inches in outside diameter, for co-petitioner status.

DOC Position

We disagree with respondent for the reasons outlined in the ''Standing'' section of this notice.

Comment 2

Mannesmann contends that including an end-use certification requirement in the scope would be both illegal and unworkable. Respondent maintains that petitioner is effectively seeking to circumvent the established legal procedure by arguing for an open-ended scope definition that encompasses products that it does not manufacture and that petitioner has conceded are not causing present injury. In addition, respondent states that it is clear that any end-use certification procedure designed to implement such a scope definition is wholly unworkable because of the manner in which the subject products are sold. That is, in almost all cases the importer of record does not know the ultimate use of the pipe products it sells, and in many instances, neither do its customers. According to respondent, as a practical matter, the effect of an end-use certification requirement would be to ask the impossible of importers. Furthermore, respondent states that the anticircumvention procedures of the antidumping law provide ample remedy to petitioner in cases of order circumvention via product substitution. Respondent emphasizes that absent the detailed inquiry required by anti-circumvention legal provisions, the Department cannot include within the scope of this investigation other merchandise simply because such other products might in theory be utilized for the same purposes as pipe meeting the listed specifications. According to respondent, to do otherwise is contrary to the antidumping law and deprives respondents of their right to a full and fair hearing on any circumvention allegations that might be advanced by petitioner at some later date.

Petitioner argues that there is no factual or legal basis for eliminating end use as a defining element of the scope of the investigation. Furthermore, not only is the feasibility of specific enforcement mechanisms irrelevant to the scope determination, but it is also untrue that any end use certification procedure would be unworkable. According to petitioner, there is no evidence on the record of this investigation that an end-use certification program must require the submission of an end-use certificate by the importer at the time of importation. Rather, petitioner proposes a program whereby the end-use certificate travels with the pipe to the ultimate end-user, who may then send it back up the line of distribution. When final duties are assessed, the Department may assume that any pipe for which no certificates can be produced was used in subject applications. Contrary to Mannesmann's arguments, petitioner maintains that the Department and the U.S. Customs Service are perfectly capable of administering an order that includes end use in its scope definition. In the event that products meeting the physical description of subject merchandise, but which are not certified to one or more of the covered specifications, are being substituted into one of the listed applications, the burden would be on the petitioner, other domestic producers or interested parties to notify Customs and the Department with some objective evidence supporting a reasonable belief that substitution is occurring. Accordingly, it is both unnecessary and inappropriate at this point to engage in debate about the feasibility and desirability of specific end-use certification procedures. According to petitioner, the facts and policy considerations relevant to such a debate are not available on this record, and the selection of a specific enforcement mechanism is beyond the Department's responsibilities in this proceeding.

DOC Position

We disagree with respondent's assertion that including end-use in the scope of the investigation would be unlawful. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F. Supp. 1104 (CIT 1989). *See* ''Scope Issues'' section of this notice for further discussion on end-use.

Comment 3

Mannesmann contends that the carbon and alloy pipe products subject to investigation are distinct classes or kinds of merchandise. Mannesmann asserts that the criteria set out in *Diversified Products* support a division between carbon and alloy products. Specifically, Mannesmann argues that carbon and alloy pipes differ in terms of physical characteristics, uses, customer expectations and cost. With respect to physical characteristics, alloy seamless pipes contain higher grade steel than carbon seamless pipe, and because of their different chemistries, these products have different performance characteristics. With respect to end use which, according to respondent, is inherently tied to physical characteristics, carbon pipe is not as versatile as alloy steel pipe and is not suited for the more sophisticated applications, such as operations in high temperature environments. Respondent asserts that the Department has consistently emphasized the relationship between physical characteristics and end use in past cases (*e.g., Torrington Co.* v. *United States*, 745 F.Supp. 718, 726 (CIT 1990) (*Torrington*)). In addition, respondent states that customer expectations vary depending upon the ability of specific merchandise to perform a given task. With regard to alloy and carbon steel pipe, the ultimate purchaser does not expect these two types of pipe to be interchangeable, and is willing to pay more for alloy steel pipe because it must perform under more adverse conditions than the conditions for which carbon pipe is suited. With respect to cost, respondent states that the cost of alloy pipe is higher than that of carbon pipe because of the more expensive raw materials and production costs incurred in producing alloy pipe. Finally, with respect to channels of trade, respondent states that carbon and alloy pipe move in similar channels, but that this factor is not determinative as to class or kind of merchandise.

Petitioner maintains that the subject merchandise constitutes a single class or kind. With respect to Mannesmann's proposal for a split in class or kind on the basis of material composition, petitioner asserts that the factual evidence does not support such a division. Petitioner states that the application of the criteria employed by the Department in *Diversified Products*

compels the conclusion that there is a single class or kind of merchandise. According to petitioner, the physical characteristics of carbon and alloy pipe represent a continuum of products produced with varying chemical compositions to meet a range of heat, pressure and tensile requirements. According to petitioner, there is simply no bright dividing line between the physical characteristics of the products. Petitioner states that the customer's expectations and use of the product are dictated by the engineering specification required by the intended application. Because the majority of all subject seamless pipe is triple-certified, the pipe may be put to any of the uses that apply to each of the individual specifications to which it is certified. Petitioner points out that the vast majority of seamless pipe is sold through the same channel of trade—distributors. Finally, petitioner adds that, because the majority of seamless pipe is triple-certified, it has identical costs regardless of the customer to whom it is sold.

DOC Position

We agree with petitioner that the subject merchandise constitutes a single class or kind for the reasons outlined in the ''Scope Issues'' section of this notice. Furthermore, respondent's reliance on *Torrington* is misplaced. In *Torrington*, the Court of International Trade found that the Department's division of antifriction bearings into five classes or kinds, based in large part on the physical characteristics of the different types of antifriction bearings, was supported by substantial evidence on the record. In this case, as we stated in our ''Scope Issues'' section, that there is insufficient evidence to show that the difference between carbon and alloy steel rises to a class or kind distinction. *See* ''Scope Issues'' section of this notice for further discussion on class or kind.

Company-Specific Issues

Comment 1

Petitioner argues that BIA must be applied to Mannesmann's responses for the following reasons:

(a) the Department was unable to verify the accuracy or completeness of Mannesmann's sales listings;

(b) MSA's difmer data is erratic and contains serious errors; and

(c) the information for various sales charges and adjustments reported by respondent could not be verified.

Petitioner maintains that Mannesmann's home market sales response must be considered unreliable when viewed in the context of the totality of problems identified at verification and the additional opportunities Mannesmann had prior to verification to provide an accurate response.

With respect to reason (a) above, petitioner states that the Department's verification report confirms that Mannesmann omitted certain sales of subject merchandise from its home market sales listing, often characterizing these omissions as insignificant in terms of the percentage they constitute of total reported sales. Petitioner asserts that since only a portion of Mannesmann's total reported sales will be matched to U.S. sales in dumping margin analysis and the Department's standard hyperinflation methodology requires separate FMV calculations for each month, omissions such as those observed by the Department can have a significant impact on the ultimate margin calculation. According to petitioner, the Department must examine each of the errors and omissions noted in the verification report in the context of its potential impact on monthly sales matches.

In addition to these sales omissions, petitioner notes further that certain sales were reported incorrectly because of errors in accounting for merchandise returns and invoice price corrections. Also, the gross prices for numerous transactions and the surface treatment codes for certain products were reported incorrectly.

With respect to reason (b), petitioner maintains that the cost data submitted by respondent remains erratic and unusable even after the Department's request for its revision in a deficiency letter issued subsequent to the preliminary determination. Reason (b) is discussed in detail under Comment 2 below.

With respect to reason (c), petitioner takes issue with verification findings for certain charges and adjustments, *i.e.*, that MSA's home market inland freight and insurance expenses were overstated, that foreign inland freight charges incurred by MSA on U.S. sales were not reported, that home market and U.S. packing costs were not verified, MPS' reporting of estimated movement charges for certain U.S. transactions, and U.S. shipment date.

Respondent argues that the discrepancies noted by the Department in the verification reports either do not have appreciable effects on antidumping analysis or serve to disadvantage respondent. Therefore, its responses should be used in the Department's final analysis. For example, respondent asserts that a portion of the unreported sales would be irrelevant to product comparisons in the Department's analysis because it did not make any sales of those same products in the United States during the POI.

With respect to the transactions which were omitted inadvertently from MCSA's February 28, 1995, sales listing due to programming errors, respondent points out that these sales were originally reported to the Department in the December 9, 1994, sales listing, and considered in the Department's preliminary analysis. Respondent states that these omitted sales fall into two categories: (1) sales of products which were not matched to U.S. products in the preliminary determination and were irrelevant in the margin calculation; and (2) sales of products which were potential matches for products sold to the United States. However, the sales of potentially matchable products were either not made in the same month as the corresponding U.S. products to which they were matched, or the Department has the necessary data from the December 9 response to utilize the sales for matching purposes. With respect to certain sales of cold-drawn pipe which were never reported to the Department, respondent argues that this is an insignificant portion of total reported home market sales, and that examining these sales within the context of the Department's preliminary determination product concordance indicates that none of the unreported sales should be treated as the most similar match to U.S. sales of cold drawn pipe. With respect to another group of products that were not reported to the Department because of a product selection error made during response preparation, respondent argues that these products are irrelevant to product comparisons on the basis of specification.

Furthermore, respondent notes that any other discrepancies found at verification are minor and/or disadvantage respondent. Such discrepancies include: the incorrect reporting of four U.S. product codes for certain transactions; the overstatement of MSA's home market inland freight and insurance charges; MSA's omission of foreign inland freight charges for U.S. sales; and certain estimated U.S. movement charges which were not updated to reflect actual charges incurred.

DOC Position

We disagree with petitioner that Mannesmann's responses cannot be used for the final determination. While we noted several discrepancies at verification, these discrepancies were neither pervasive nor representative of a

pattern of misrepresentation which would merit the rejection of the questionnaire response in total.

It is true that respondent omitted certain home market sales from its February 28, 1995, sales listing for a variety of reasons, ranging from incorrect product code selection to inadvertent programming errors (*see* MSA/MCSA Verification Report at 49–55). However, we were able to verify the nature and magnitude of these errors, and found that they are not significant with respect to either the percentage of total home market sales reported or potential home market matches. In order to arrive at this conclusion, we conducted a comparative analysis between the characteristics (and weighted-average prices) of the omitted home market products originally reported in Mannesmann's December 9, 1994, sales listing, and those of the reported home market products in respondent's February 28, 1995, sales listings. As a result of this exercise, we found that for some of the omitted sales, there did not exist contemporaneous sales of identical products reported in respondent's February 28, 1995, sales listings. We then compared the product characteristics of the omitted sales to those of the U.S. sales, and found that none of the omitted home market sales would be comparable to the U.S. products sold during the POI on the basis of grade. Regarding those sales of another group of products that were not reported to the Department because of a product selection error, we found that, regardless of the month in which they were sold, these products would not be comparable to those sold to the United States on the basis of specification. Finally, we have determined to apply BIA to respondent's U.S. sales of cold-drawn pipe made during the POI for the reasons outlined in Comments 2 and 9 below.

Furthermore, with respect to those home market sales affected by merchandise returns which were verified not to be usable for margin analysis, we found that the home market sales quantity affected was insignificant in terms of total reported home market sales quantity. Because these sales were incorrectly included in respondent's home market sales listing, we excluded them from our analysis where we could clearly identify the affected individual transactions from data contained in verification exhibits.

In addition, regarding the gross prices of those transactions which were found to be overreported, we included these sales in our analysis, but did not make any adjustments to price. Our decision to make no adjustment is based on the fact that the prices at issue represent an overstatement of actual prices charged and any revision of such prices would not only be burdensome given the number of affected transactions, but would also require the revision of other sales-related data (*e.g.*, taxes) which are calculated based upon price and were not examined specifically at verification within the context of overreported gross prices.

As for the other areas stated by petitioner in which discrepancies were found (*e.g.*, difmer, packing, etc.), we made appropriate adjustments in accordance with verification findings based on information on the record, as discussed in the ''United States Price,'' ''Foreign Market Value'' and ''Interested Party Comments'' sections of this notice.

Comment 2

Petitioner contends that Mannesmann's difmer cost data remains erratic and unusable for the final determination and, therefore, the Department should apply BIA to calculate the margin for any U.S. sale for which there is no contemporaneous identical match in the home market. According to petitioner, Mannesmann's difmers are deficient because they are not based on replacement costs in the month of shipment; rather Mannesmann's costs have been reported on a historical basis. Petitioner points out that the fact that Mannesmann has recorded its historical costs in UFIRs does not transform them into replacement costs, and that this approach has been rejected in previous cases by the Department (*e.g., Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil,* 59 FR 42806, August 19, 1994) (*Silicon Metal from Brazil*). Even though the Department changed its hyperinflationary methodology in 1994 by providing for indexing of costs across different months, petitioner maintains that the costs that are indexed still must be replacement costs during the month of shipment, and must not represent historical costs. Petitioner argues that UFIR indexation is no substitute for the reporting of actual monthly replacement costs.

Petitioner also maintains that the fluctuations in cost are not limited to the materials component of the reported costs; there are also significant variations in the reported labor and variable overhead costs from month to month for the same products, indicating that the data is unreliable. According to petitioner, while the Department verified that the reported cost data was submitted in accordance with the exact methodology used in its normal cost accounting system, the Department did not verify that the system accurately states respondent's costs for purposes of this investigation. Citing *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom* (58 FR 6207, January 27, 1993), petitioner emphasizes that the Department has rejected the use of cost differences unrelated to physical differences for difmer adjustment purposes in past cases.

With respect to petitioner's request for the use of BIA, respondent asserts that petitioner ignores the facts on the record and that the Department was able to trace the reported cost data to source documentation, and tie them to financial statements.

Furthermore, respondent asserts that petitioner's attempt to link the concepts of replacement costs and monetary correction in arguing that MSA's reported costs do not account for changes in replacement costs is confused. According to MSA, a monetary correction is merely an adjustment to financial statements to measure the cost for holding balances in certain accounts during periods of inflation. Such an adjustment has nothing to do with production costs or difmer calculations. Respondent notes that the Department has confirmed this in past cases by treating such monetary corrections as offsets or additions to financing expenses (*e.g., Final Results of Administrative Review: Gray Portland Cement from Mexico,* 58 FR 47253 (1993)).

Respondent asserts that, contrary to petitioner's attempt to confuse the significance of MSA's UFIR-based cost system, this system accounts for the effects of changes in replacement costs. In addition, respondent opposes petitioner's characterization that a UFIR-based system is tantamount to reporting historical costs. According to respondent, the historical method contrasts sharply with the UFIR system, which carries costs forward on a steady currency basis and, in effect, reaches the same result as a replacement cost system. The UFIR-based methodology is applicable for both finished goods and inputs and ensures that MSA's costs reflect market conditions. Because this methodology tracks the inflation rate, material and finished goods are constantly inflated when expressed in Brazilian currency. According to respondent, this result is precisely the intent of the replacement cost accounting system, *i.e.*, to express costs in real terms. Therefore, respondent's UFIR-based system accurately tracks cost on a replacement basis and is not,

as petitioner suggests, on a historical cost basis.

DOC Position

We agree in part with both petitioner and respondent. At verification, we noted that respondent's reported UFIR-based material and fabrication costs varied substantially for the same product produced in different months. We were able to establish that this cost variance was due to a combination of factors which are unrelated to physical differences: (1) the nature of MSA's cost accounting system; (2) the process used to produce the input bar consumed in the production of subject merchandise (whether it was produced using ingot or a continuous caster); and (3) whether the material was purchased (imported) or produced in-house by the respondent.

Contrary to petitioner's contention that replacement costs must be used when indexing costs between different months, for difmer purposes, we consider it appropriate to have cost data submitted in UFIR, as maintained by the company in its ordinary course of business. (*See* Department Policy Bulletin No. 94.5 dated March 25, 1994.) The UFIR is not a methodological creation of the respondent; UFIR-denominated costs must be kept in the ordinary course of business for reporting purposes to the ''Junta Comercial'' (the Brazilian equivalent of the Securities and Exchange Commission). Also, we find that petitioner's cite to *Silicon Metal from Brazil* as case precedence for the Department rejecting submitted UFIR costs is misplaced. In *Silicon Metal from Brazil*, unlike the instant case, there was no UFIR type indexation scheme in effect. Rather, the ''monetary correction'' methodology (*i.e.*, year-end restatement of assets/liabilities) used by respondent was deemed inappropriate.

Furthermore, we disagree with petitioner's contentions that MSA's submitted variable fabrication costs are unreliable and that the differences in fabrication costs cannot be explained by alleged differences in input steel costs. As stated above, we verified that MSA's submitted cost data was extracted directly from its normal cost accounting system which records the actual costs incurred to manufacture each batch of pipe produced. We thus have no reason to believe that MSA's submitted cost data is unreliable in general. Second, we observed at verification that steel bar produced from ingot versus a continuous caster will affect both material and fabrication costs.

However, notwithstanding the fact that respondent's variable costs were reported in accordance with its normal cost accounting system, we agree with petitioner that we must use variable costs for difmer adjustment purposes which are not distortive in margin analysis. For difmer purposes, it is the Department's practice to consider only those cost differences associated with physical differences in the products under comparison. The flaw we found in MSA's reporting methodology was one of not neutralizing the cost differences resulting from different production processes or supply sources for input bar, which is an inherent result of its normal cost accounting system. Therefore, for purposes of the final determination, we have modified respondent's variable costs of manufacture for those products for which we had information on the record to enable us to compute a difmer adjustment exclusive of the cost differences unrelated to physical differences. For the material costs of these products, we computed a POI weighted-average bar cost for all subject merchandise using the same material grade bar. We then determined the product-specific material costs by multiplying product-specific POI average yield rates by the POI weighted average bar cost. For fabrication costs, we had available a breakout of the quantity of continuous casted versus ingot bar used in production for specific products for each month of the POI. From this data, we identified for similar product matches, which months used comparably sourced bar.

However, for certain products we did not have the information concerning the POI monthly quantity of input bar produced via the continuous-casted versus ingot methods. Additionally, we were unable to determine the percentage of such products produced from imported tube versus MSA-produced tube. We note that the vast majority of the U.S. products that are affected by this lack of information on the record are cold-drawn pipes. *See* Comment 9 below. Therefore, for a small percentage of U.S. sales quantity, we were unable to eliminate the fabrication cost differences resulting from the different production processes and/or sources of input bar. For those sales of U.S. products where we did not have reliable fabrication costs, we used a margin based on BIA. As BIA, we used a calculated margin that is sufficiently adverse to fulfill the statutory purpose of the BIA rule (section 776(c) of the Act) and which is indicative of, and bears a rational relationship to, the respondent's sales. *See National Steel* v. *United States*, 870 F.Supp. 1130 (CIT 1994).

Comment 3

Petitioner argues that MSA and MCSA incorrectly reported invoice date as the date of sale for all home market sales. It maintains that the correct date of sale is Mannesmann's internal order date because it is at this time that final agreement on the essential terms of sale, including price and the manner in which it will be adjusted for inflation, is made. Petitioner asserts that the only changes in the essential terms of sale between Mannesmann's internal order and invoice dates are a currency conversion and an inflation adjustment, both of which are performed automatically by computer without negotiation with the customer; and that this was the only variance between order and invoice date noticed by the Department at verification. According to petitioner, the automatic restatement of the price by computer to account for inflation is not a substantive change in the material terms of sale. Petitioner cites *Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from France* (52 FR 812, January 9, 1987) (*Brass Sheet and Strip*) to support its position that it is the Department's established practice to use as the date of sale, the date on which basic terms become determinable, without regard to automatic mechanisms that might alter or establish specific terms.

For the final determination, petitioner urges the Department to use the sales listings submitted on December 9, 1994, despite substantial alterations made to them (*i.e.*, in the subsequent sales listings submitted on February 28, 1995). According to petitioner, these listings provide internal order dates and invoice numbers that can easily be matched to the invoice numbers reported in Mannesmann's February 28, 1995, response. For any sales in the February 28, sales listing which cannot be matched to an alleged ''proper'' date of sale using the December 9, listing, petitioner maintains that the Department should apply partial BIA by using the average time lag between order and invoice date for other sales to place the sale in the appropriate month. This method of partial BIA would entail deflating prices for such months because the prices and adjustments in the February 28, response are stated in cruzeiros valued for months later than the actual date of sale claimed by petitioner, so that they are restated in terms of the value of the cruzeiro during the month of sale. Alternatively, if the currency conversion is too burdensome, the Department should apply, as partial BIA to such sales, either the highest

calculated margin for the company or the highest margin alleged in the petition.

Respondent argues that invoice date is the correct date of sale in accordance with the Department's normal methodology. It is also the date mandated by Brazilian law and accounting practices, which do not recognize a sale until the invoice is generated, and the date consistent with MSA and MCSA's recordkeeping system in the ordinary course of trade. Respondent takes issue with petitioner's assertion that the only subsequent changes in the essential terms of sale between MSA's internal order entry and shipment are a currency conversion and an inflation adjustment. Respondent states that not only did the high rate of inflation during the POI preclude any determination of the essential terms of sale (particularly price) until the time of invoicing, but also that there are significant fluctuations in price and quantity that typically occur between the order date and invoice date which the Department confirmed at verification. Citing the *Preliminary Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand* (60 FR 2734, January 11, 1995), respondent asserts that the Department has, under appropriate circumstances in past cases, specifically endorsed invoice date as the date of sale. In addition, respondent states that the purchase order is sometimes not received until after the invoice is generated by MCSA and the order shipped. According to respondent, invoice date is the most consistent and reliable basis for reporting comparable dates of sale in Brazil from both MSA and MCSA.

DOC Position

We agree with respondent and have accepted its reported date of sale. At the verification of both MSA and MCSA, respondent provided source documentation substantiating its reasons for using invoice date as the date of sale. These reasons included not only the effects of inflation between purchase order date and invoice date, but also the fact that Mannesmann's internal order is subject to numerous fluctuations in price and quantity up until the date of invoice. (*See* Verification Report at 11–12 and 47.) Our decision in this instance is consistent with past cases. *See Amended Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Brazil,* 59 FR 8598, February 23, 1994).

We also note that the facts in *Brass Sheet and Strip* are different from those in the instant case. In *Brass Sheet and Strip,* a formal contract between the buyer and seller established a price based upon a publicly quoted metal value source. The parties had agreed upon a time period during which the customer could lock in the publicly quoted rate; no further negotiations were necessary. *In Brass Sheet and Strip,* the price and quantity terms were sufficiently definite and effectively finalized as of the date of the initial contract, and the parties had no further ability to change the price by negotiation. In the instant case, not only are prices subject to fluctuation due to the hyperinflationary adjustment in Brazil, but customers often negotiate a different price or make material changes to quantity between the date of initial order entry and invoice date. While the *Brass Sheet and Strip* case involved long-term, fixed contracts where there was nothing left for the parties to negotiate, the instant case reflects the fact that when a purchase order to schedule production enters into MSA's system, the negotiating continues and a price adjustment often follows at the time of invoicing. With respect to this price adjustment, we could find no evidence in the source documentation examined at verification that, at the time of order, the customer had knowledge of the index (or indices) that would be used by respondent to make the adjustment for inflation, and that the customer therefore knew the exact price to which it had agreed. We also noted evidence of post-order cancellations, indicating that the customer was not bound by the terms set in the order.

We note that our decision in this case to accept the date of invoice as the date of sale is based upon the factual evidence on the record. In general, issues regarding the appropriate date of sale are examined on a case-by-case basis, and our decision in this case should not be interpreted as a general policy preference in future cases.

Comment 4

Consistent with its contention that the appropriate date of sale is the date of respondent's internal order, petitioner maintains that the home market prices and other cruzeiro-denominated data reported by Mannesmann must be restated in terms of the value of the cruzeiro during the month of sale. Similarly, according to petitioner, an inflation factor should not be included in any credit expense adjustment. Petitioner argues that to some extent the inflator in the credit expense adjustment can be expected to offset the inflator in the price. However, since the two inflators are derived differently and serve different purposes, they are seldom, if ever, equal. Whereas the credit expense inflator reflects inflation from the invoice date to the actual date of payment, the price inflator is based on the number of days between the invoice and the expected date of payment. Furthermore, petitioner states that the Department verified that the rates used for the price inflator are not proportional across payment terms. Therefore, while the credit expense inflator should reflect the actual inflation rate, the price inflator may be higher or lower than the true rate depending on the date of actual payment. According to petitioner, the Department can determine the actual gross unit price in terms of cruzeiros during the month of sale by subtracting the reported inflation value from the reported gross unit price (invoice price). In addition, the indexed value of the reported (inflated) gross price should be compared to the price of the internal order, and any excess should be treated as interest revenue attributable to that sale because the price inflator may be higher than the true inflation rate.

Petitioner suggests that the reported inflation value be subtracted from gross price to obtain the price in terms of cruzeiros as valued during the month of shipment, and the resulting values can be converted to cruzeiros as valued on the actual date of sale (*i.e.*, the internal order date) using the exchange rates provided in Mannesmann's response. The indexed value of the reported (inflated) gross price should then be compared to the price of the internal order, and any excess should be treated as interest revenue attributable to that sale.

Respondent maintains that the Department has verified the reported home market credit expenses and the rates for short-term loans available in Brazil during the POI without discrepancy and, therefore, should deduct these credit expenses as reported from FMV. Mannesmann disputes petitioner's allegation that interest revenue affects credit expenses and that, if a customer made a late payment, Mannesmann is not entitled to an adjustment for credit expenses because it would understate home market price. Respondent states that in the few instances when a customer did not pay on the expected date, interest revenue amounts were reported as an upward adjustment to the home market price, as verified by the Department. Also, if a customer did pay late, not only did Mannesmann incur the opportunity cost of not having the customer's money from the invoice date to the expected payment date, but it also suffered a

financial loss from delayed payment during the period between the payment date listed on the invoice and the actual payment date. Therefore, according to Mannesmann, denying an adjustment for credit expenses for the time following payment due date and actual payment is totally illogical.

DOC Position

As discussed above in Comment 3, we have determined that invoice date is the appropriate date of sale in this case. Therefore, we consider moot petitioner's arguments with respect to the restatement of home market prices to reflect the value of the cruzeiro on the order date.

In our preliminary determination, we adjusted FMV for inflation occurring between order and invoice date, which factors in expected payment terms, as well as credit expenses, which include an inflation factor based on actual payment terms. Based on verification findings and our acceptance of respondent's date of sales methodology, we have determined that this adjustment was incorrect because it double-counted the value of inflation. Therefore, for purposes of the final determination, we only made an adjustment to FMV for credit expenses as reported and verified.

Comment 5

Mannesmann argues that the Department should compare U.S. sales by MPS with home market sales made by MSA, including sales to its related party MCSA, and that it provided evidence that MSA's sales to MCSA are arm's-length transactions. However, if the Department does not treat MSA's sales to MCSA as arm's-length transactions, the Department should make a level of trade adjustment to reflect the additional selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs) incurred by MCSA.

Mannesmann asserts that 19 CFR 353.58 requires that a level of trade adjustment be made when FMV and U.S. price are not based on sales at the same commercial level of trade. According to respondent, MSA and MCSA operate at different levels of trade in Brazil. MCSA is a distributor that purchases from MSA and sells to customers from inventory, requiring MCSA to incur considerable inventory and selling expenses. In contrast, both MSA in Brazil and MPS in the United States are not made from inventory, but are manufactured to order. To support its argument, respondent cites *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Spain* (59 FR 66931, December 28, 1994) (*Stainless Steel Bar*) where the Department granted such an adjustment under allegedly similar factual circumstances.

Petitioner contends that Mannesmann did not provide the evidence it purports to have provided substantiating its claim regarding the arm's-length nature of the transactions between MSA and MCSA. At the preliminary determination, the Department determined that sales to MCSA were not made at arm's length, and based FMV on MSA's and MCSA's sales to unrelated customers. According to petitioner, nothing in the verification report obligates the Department to change that finding. Furthermore, petitioner argues that Mannesmann has not proven its entitlement to a level of trade adjustment. Petitioner asserts that it has not been clearly established that two levels of trade exist. In addition, petitioner states that while Mannesmann argues that differences in selling expenses exist due to inventory costs, it has not proven that a correlation exists between both prices and selling expenses at each level of trade.

According to petitioner, absent additional information concerning differences in the customer bases (*e.g.*, relative size and purchasing power of customers), evidence that price differences correlate to level of trade differences, a level of trade adjustment is not appropriate. However, if the Department nonetheless decides to grant respondent the requested adjustment, it should be based on differences in actual expenses incurred on MCSA's sales; *i.e.*, the adjustment should be made on the reported indirect selling expenses only, exclusive of the reported inventory carrying costs. Petitioner also adds that these selling expenses must be offset by the indirect selling expenses incurred by MSA on U.S. sales because the basic purpose of a level of trade adjustment is to account for differences in the level of trade between U.S. and home market sales.

DOC Position

With regard to the arm's-length nature of related party sales, we agree with petitioner. Based on the results of our related party test (as described in the FMV section of this notice), we found that MSA's sales to MCSA are not at arm's length and, thus, we excluded them from our dumping analysis for purposes of the final determination. This result is consistent with that in our preliminary determination, and since that time, respondent has not provided any new evidence to justify a departure from our normal related party test.

With regard to matching by level of trade, we have accepted respondent's level of trade classification because the record indicates that the alleged difference in level of trade involves different selling activities and expenses. However, with regard to the respondent's claim for a level of trade adjustment, we have determined that an adjustment is not warranted because we are uncertain whether the difference in level of trade affects price comparability.

In analyzing the prices at the two levels of trade, we compared average prices, adjusted for all direct selling expenses, by product and month of sale for the POI. The results of this analysis indicate that prices overlap for a significant number of sales. However, because for each month only a small number of prices by product were available and the monthly inflation rate was high, we have concluded that the data does not provide a reliable indication of the pattern of prices at the two levels of trade. Therefore, we do not have a basis to conclude whether there is or is not a pattern of price differences attributable to level of trade. Accordingly, we have not made a level of trade adjustment.

Comment 6

Petitioner maintains that Mannesmann's packing expenses are unverified and may not be relied upon for purposes of the final determination. Petitioner also maintains that these costs appear to have been based solely on labor and materials without any allocation of overhead costs, and MCSA failed to report any repacking costs associated with its sales. Therefore, petitioner advocates using BIA. As BIA, petitioner requests that the Department either not make any upward adjustment to U.S. price for packing or use the lower of the amounts reported in the U.S. sales listing and the lowest export packing amount reported on the chart on page 41 of the Department's May 11, 1995, Verification Report. Additionally, petitioner proposes that the Department should (1) subtract the lowest of the packing amount reported for the home market sales listing and the lowest domestic packing amount from the verification report chart, and (2) add as an offset to FMV the higher of the amount of the highest U.S. packing amount reported in the sales listing and the highest amount of export packing reported on page 41 of the verification report.

Respondent argues that the Department should apply an average per

unit packing cost based on MSA's simulated cost data provided at verification which tied to the cost data provided in Exhibit 18 of the December 9, 1994, response, as this is the most accurate and reliable data on which to calculate MSA's packing costs. MSA provides a monthly average packing cost calculation for each of the four products sold in each market in Exhibit 2 of its May 19, 1995, case brief. Therefore, the Department should match the resulting average monthly packing data to the sales listing based on the month of shipment for home market sales, as all home market shipments occurred between January and June 1994. For U.S. sales, many shipments of which occurred after the POI, respondent proposes using an average POI packing expense (also provided in Exhibit 2). For sales of products which do not match to one of the four product codes, the average packing expense of all four product codes should be applied.

DOC Position

We agree with petitioner that the reported packing expenses were unverified. At verification, respondent explained that MSA's cost accounting system cannot separately identify packing costs incurred for export and domestic sales. Therefore, in order to derive the monthly per unit packing amounts reported in the U.S. and home market sales listings, MSA conducted packing simulation exercises for four products—three hot-finished and one cold-drawn. That is, they estimated the time it took to pack the products based on actual experience and derived the associated materials and labor costs from their accounting records. However, we could not tie the monthly packing costs resulting from this exercise to the reported monthly per unit packing amounts in respondent's home market and U.S. sales listings. Respondent could not explain the reason for the discrepancy. Therefore, we determine that these costs were not verified. Because the reported costs cannot be used for purposes of our analysis, we used BIA. As BIA for these costs, we subtracted from FMV, the lowest domestic packing amount reported on the record, and added to FMV, the highest export packing amount reported on the record.

Comment 7

Respondent maintains that the Department verified that no galvanized, threaded or coupled products were sold to the United States during the POI. Therefore, MCSA's sales of such products will not be matched to U.S. products and are thereby irrelevant in the Department's margin analysis. With respect to the unreported bevelling costs, respondent states that MSA's cost for producing bevelled pipe was used as a surrogate value for MCSA's sales of bevelled product. Mannesmann states that it is logical that its cost of bevelling would be lower than the bevelling costs charged by a third party. The use of the third party bevelling cost would have resulted in higher home market variable costs which, in turn, would have resulted in a lower difmer to be added to FMV. According to Mannesmann, the use of MSA's bevelling costs as a surrogate for third party expenses incurred by MCSA was therefore conservative and reasonable.

Petitioner contends that Mannesmann often reports significantly different costs in the same month for products that are identical except for end finish, and that these variations do not make sense, particularly because the differences between black plain-end pipe and bevelled-end pipe are insignificant especially in terms of material costs. According to petitioner, there is no consistency in the margins by which reported materials costs differ for otherwise identical products with different end finishes. Neither is there any evidence on the record to suggest a reason for attributing such widely varying costs to virtually identical products simply by reason of end finish. Petitioner notes that, in some instances, Mannesmann has reported identical costs for different end finishes. Petitioner maintains that these facts cast doubt on Mannesmann's entire cost accounting system.

In addition, Mannesmann's principal contention concerning MCSA's third party bevelling costs (*i.e.*, that they are higher than MSA's) constitutes non-record information upon which the Secretary may not rely. MCSA's bevelling costs have never been separately reported on the record and, therefore, could not have been verified. Thus, any bevelling cost attributed to products sold by MCSA must be based on BIA.

DOC Position

We agree with petitioner and respondent in part. We verified that while MCSA failed to report third party galvanization, coupling and threading costs for certain products, no such products were sold to the United States during the POI and, therefore, were not used in product comparisons. Thus, the omission of these costs did not affect any difmer adjustments that were made for similar product comparisons. However, even if such products were used in product comparisons, MCSA's omission of these costs for difmer adjustment purposes would have the effect of underestimating home market costs and thereby overstating the upward difmer adjustment made to FMV. Therefore, we did not make any adjustment for the omitted costs at issue.

With respect to bevelling costs, we note that there were U.S. sales of bevelled pipe during the POI. We also note that for MCSA's sales of bevelled products that were used in product comparisons, MSA's costs of bevelling were included in the reported variable costs of manufacture. This is consistent with the verified product coding methodology used by MCSA. That is, for those products that were further processed by third parties prior to sale, MCSA reported only its own internal product code, and for those products that did not undergo further processing, MCSA reported both MSA's product code and its own product code (*see* May 11, 1995, Verification Report at 8). For the transactions consisting of the bevelled products sold by MCSA which were used in product comparisons, respondent reported both product codes, indicating that the bevelling was performed at MSA's mill. However, we modified these costs for difmer adjustment purposes for the reasons stated in DOC Position to Comment 2 above.

Comment 8

Petitioner alleges that a deduction to U.S. price should be made for the ''bank fees'' incurred by MSA for entering into exchange contracts in order to receive payment from MPS on its shipments to the United States. According to petitioner, such fees are a necessary and direct selling expense relating to U.S. sales. Since similar fees are not incurred for home market sales, the fees must be deducted from USP in order to obtain a proper comparison. Petitioner maintains that Mannesmann's claims that the fees do not affect the U.S. price and that Mannesmann invests a portion of these funds (which respondent has not quantified) is irrelevant to the Department's analysis.

Respondent maintains that this proposal is incorrect for the following reasons: (1) The exchange contract transaction does not impact the U.S. customer, but is solely a mechanism whereby MSA can be paid in local currency for foreign currency sales as required by Brazilian law; and (2) throughout the POI, MSA chose to receive payment in Brazilian currency under the exchange contracts in advance (when the order was booked from the mill), a portion of which it

invested and gained returns which exceeded any fees paid to the bank. According to Mannesmann, the Department should treat the exchange contracts as intercompany transfers of funds between MSA and MPS that have no effect on the payment from the U.S. customer. Respondent claims that any bank fees incurred pre-shipment by MSA are administrative fees that have no bearing on U.S. price.

DOC Position

We disagree with respondent that these fees are intracompany transfers. They are fees paid to third parties in the U.S. sales process which we conclude are included in the ultimate price between MPS and the U.S. customer. These types of fees are normally taken into account in the Department's margin analysis. Therefore, we made an adjustment to U.S. price in the amount of the fee reported in the sample exchange contract provided in Exhibit 10 of the December 9, 1994, response.

Comment 9

Petitioner states that respondent included in its sales listing sales of cold-drawn products finished from imported tube hollows. According to petitioner, such products are not subject merchandise produced in Brazil and should not have been included in the sales listing. Petitioner urges that the Department apply BIA to all sales of cold-drawn pipe in the final determination. In addition, petitioner maintains that none of the difmers provided for cold-drawn products can be used because it is not known how many are affected by the inclusion of imported tube hollows. There is no information on the record that would allow the Department to equate the cost of producing cold-drawn pipe with the cost of finishing cold-drawn tube hollows.

Respondent asserts that the cold-drawn products referred to fall within the scope of the investigation. Mannesmann reported as subject merchandise sales of all products within the scope of the investigation, regardless of whether those products were made from ingots or billets, or in the case of the limited amount of cold-drawn products, purchased hollows. Therefore, unless the petitioner contends that pipe manufactured in Brazil from imported hollows are excluded from the scope of the investigation, Mannesmann asserts that it properly reported all shipments of subject merchandise, including small diameter cold-drawn product manufactured from hollows. Moreover, the Department verified the quantity and price of purchased hollow tubes, and traced the reliability of those material costs reported for cold-drawn products.

DOC Position

We agree with petitioner in part. Our verification findings revealed that respondent had properly reported sales of cold-drawn seamless pipe as subject merchandise in its sales listings (but for certain omissions discussed in Comment 1 above). We also found that respondent used imported tubes in the production of cold-drawn pipe during the POI. However, respondent failed to inform the Department that it used any material input other than in-house produced bar for the production of cold-drawn pipe during the POI, despite the Department's questions concerning the materials used in the production of the subject merchandise in its February 10, 1995, supplemental questionnaire. Consequently, we are unable to make a reliable difmer adjustment for U.S. sales of cold-drawn products because the variable costs reported include costs unassociated with physical differences. Therefore, because we cannot use or modify the reported difmer data for these cold-drawn products as we do not have the information on the record to do so, we have used BIA for the affected sales. *See* also DOC Position to Comment 2 above.

Comment 10

Petitioner contends that approximately two-thirds of the exchange rates reported in MCSA's sales listing, which are necessary for the proper calculation of difmers and should reflect the average monthly rate for the month of shipment, are incorrect. Therefore, the Department should cross-check each reported exchange rate against the actual monthly rate, and make appropriate corrections for the final determination.

Respondent maintains that petitioner's contention is incorrect. According to respondent, the rates at issue were adjusted to ensure that they matched the date of shipment from the factory, and this is the reason for the 22 day adjustment reflected in Mannesmann's response. Mannesmann reported all difmer data and the relevant exchange rates based on the month in which the pipe was shipped from MSA's mill. Because MSA does not maintain inventories of finished pipe, the month of shipment from MSA is also the month in which the pipe was produced. Similarly, in the case of U.S. sales, the Department asked MPS to revise its reported shipment date to reflect the date on which the pipe left the mill. Thus, in all cases involving sales by MSA or MPS, the reported date of shipment reflects the month in which pipe was produced and shipped.

For sales by MCSA, pipe produced by MSA and shipped to MCSA is placed in MCSA's inventory from which it is subsequently resold to MCSA's customers. The reported shipment date for MCSA sales, therefore, does not reflect when the pipe was produced and shipped from MSA. In order to ascertain when a given quantity of pipe was produced and shipped from MSA, MCSA's average days in inventory (as reported in Exhibit 24 of the December 9, 1994, response) was subtracted from the reported shipment date. Therefore, all difmer data and exchange rates for MCSA were based on MCSA's date of shipment minus the average number of days in inventory in order to ensure that the difmer data and exchange rate reflected the date on which the merchandise was produced and shipped from the factory.

DOC Position

We consider this issue raised by petitioner to be moot based on our treatment of difmer costs discussed in Comment 2 above. By using revised UFIR costs for difmer adjustment purposes, we no longer need to convert these costs to U.S. dollars using an average exchange rate. However, we note that we verified the daily CR/UFIR and US$/CR exchange rates reported by respondent in Exhibits 4 and 5 of the February 28, 1995, response against source documentation and found that they were based on official government rates. (*See* May 11, 1995, Verification Report at 37.) Therefore, for purposes of converting home market prices, difmer costs and other adjustments to U.S. dollars on the date of the U.S. sale, we intend to use the verified government exchange rates that were verified. This is consistent with past practice. (*See Silicon Metal from Brazil.*)

Comment 11

Petitioner maintains that Mannesmann has improperly submitted untimely new factual information in its case brief, including: (1) an affidavit by an MPS employee which presents evidence of differences between carbon and alloy pipe within the context of the criteria in *Diversified Products* relevant to the issue of whether the subject merchandise should constitute more than one class or kind; (2) portions of the record of proceedings before the International Trade Commission concerning the issue of whether to continue to include end use as a defining characteristic of the scope; and (3) factual information concerning the

manner in which it calculated MCSA's bevelling costs that had not been submitted to the Department previously. According to petitioner, the Department must strike this information from the record and may not consider it in the final determination.

DOC Position

We disagree with petitioner. With respect to the portions of Mannesmann's case brief referred to above concerning class or kind and end use, we note that the information contained therein further corroborates data previously submitted on the record by respondent (*see* Mannesmann's submissions dated October 21, 1994, October 31, 1994, and March 27, 1994). With respect to bevelling costs, we did not rely on the information referred to by petitioner for purposes of the final determination (*see* DOC Position to Comment 7 above).

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Brazil, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated dumping margin, as shown below, for entries of seamless pipe from Brazil that are entered, or withdrawn from warehouse, for consumption from the date of the publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
Mannesmann S.A.	125.00
All Others	125.00

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry, within 45 days of the publication of this notice. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 USC 1673(d)) and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14937 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–820]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–6320 or (202) 482–3853, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe (seamless pipe) from Germany is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the notice of the preliminary determination published on January 27, 1995, (60 FR 5355), the following events have occurred.

On February 8, 1995, petitioner alleged that the Department made a ministerial error in its preliminary margin calculations. The Department determined on February 17, 1995, that the allegation raised by petitioners was methodological in nature and improperly raised under Section 751(f) of the Act.

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise.

On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

On February 10, 1995, we issued a supplemental questionnaire to Mannesmannrohren-Werke AG (MRW). MRW submitted its supplemental responses and revised home market and U.S. sales listings on February 28, 1995, and March 6, 1995, respectively.

Pursuant to requests by petitioner and respondent, on February 16, 1995, a notice was published in the **Federal Register** (60 FR 9012) announcing the postponement of the final determination until June 12, 1995.

In March and April 1995, we conducted verification of MRW's questionnaire responses. Our verification reports were issued in May 1995.

On April 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status.

Respondent and petitioner submitted case briefs on May 16, 1995, and rebuttal briefs on May 23, 1995. No public hearing was requested. On May 23, 1995, we returned portions of MRW's case brief because we determined that it contained new factual information submitted after the deadline specified in 19 CFR 353.31 (a)(i)) for the submission of factual information. On May 24, 1995, MRW refiled its case brief with the new information deleted.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe

applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) Whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to

continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products [1], we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989)(*Ipsco*). In *Ipsco*, the Department had clarified the scope of certain orders, in particular the phrase, ''intended for use in drilling for oil and gas,'' as covering not only API specification OCTG pipe but, '' 'all other pipe with [certain specified] characteristics used in OCTG applications * * *' '' Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end- use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, *see* June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) The general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 FR 18992, 18998 (May 3, 1989) (''AFBs from Germany''); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 FR 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela*, 59 FR 1929, January 13, 1994.

[2] This approach is consistent with petitioner's request.

[3] The relevant ASTM specifications, as well as product definitions from other independent sources (*e.g.*, American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from 1/2 inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 FR 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 FR 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 FR 22045 (May 9, 1995).

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany,* 54 FR at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada,* 57 FR at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in AFBs from Germany,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report.* The *Preston Pipe Report,* which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: It does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that ''the U.S. market'' recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as ''tubes'') are covered by the scope; (3) whether certain merchandise (*e.g.,* boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness.* Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335,

ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 CFR 353.12(a).) Section 771(9)(C) of the Act defines ''interested party,'' *inter alia*, as a producer of the like product. For the reasons outlined in the ''Scope Issues'' section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the ''Case History'' section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time,* and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it ''would have elevated form over substance and fruitlessly delayed the antidumping investigation . . . when Congress clearly intended these cases to proceed expeditiously.'' *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Best Information Available (BIA)

We have determined that the questionnaire responses submitted by MRW are unusable because we were unable to verify their accuracy. Most importantly, we found at verification that MRW failed to include the costs incurred by one of its two manufacturing facilities which produced subject merchandise during the POI among the costs reported for differences-in-merchandise (difmer) adjustment purposes, despite the fact that the response had indicated, and MRW claimed up until the final hours of verification, that its reported costs reflected a weighted-average of the two plants. Accurate difmer information is crucial to the Department's analysis in this case because there are very few, if any, comparisons of identical merchandise. In general, seamless pipe in Germany is produced and sold to DIN specifications while seamless pipe exported to the United States is produced to ASTM specifications.

Other significant problems were discovered at verification. Company officials could not explain or provide adequate support documentation to explain numerous discrepancies and omissions. MRW was unable to tie the reported difmer data to its financial statements. MRW also failed to adequately demonstrate that the sales data reported to the Department took into account changes in price, quantity and date of sale. Finally, numerous other errors were found ranging in magnitude from significant discrepancies to minor clerical errors, for the majority of the items we attempted to verify. Collectively, these discrepancies and omissions demonstrate that MRW's questionnaire response is unreliable and unusable for purposes of the final determination.

Section 776(b) of the Act provides that if the Department is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted, it shall

use BIA as the basis for its determination. Consequently, we have based this determination on BIA. (*See* decision memorandum from The Team to Barbara R. Stafford dated June 12, 1995, for a detailed discussion of our verification findings and BIA recommendation.)

In determining what rate to use as BIA, the Department follows a two-tiered BIA methodology, whereby the Department may impose the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding, or assign a lower rate for those respondents who have cooperated in an investigation. When a company is deemed uncooperative, it has been the Department's practice to apply as BIA the higher of the highest margin alleged in the petition or the highest rate calculated for any respondent. The Department's practice for applying BIA to cooperative respondents is to use the higher of the average of the margins alleged in the petition or the highest calculated margin for another firm for the same class or kind of merchandise from the same country. *See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany*, 54 FR 18992, 19033 (May 3, 1989). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied-Signal Aerospace Co.* v. *the United States*, 996 F2d 1185 (Fed Cir. 1993); *see also Krupp Stahl AG. et al* v. *the United States*, 822 F. Supp. 789 (CIT 1993).)

We have determined that MRW was uncooperative during this proceeding and have assigned a margin based on uncooperative BIA. Because there are no other respondents in this investigation we are assigning, as BIA, the highest margin among the margins alleged in the petition. MRW significantly impeded our administration of the case by misrepresenting the methodology it used in the response regarding the costs of the unreported plant.

MRW did not alert the Department at any time to any difficulties in providing the information requested in the questionnaire concerning the unreported manufacturing facility, and had indicated that the plant's costs had been included in a weighted-average calculation. In addition, much of the documentation we requested at verification was received late in the verification process, was incomplete, or, in some cases, not received at all. MRW was unable to demonstrate: (1) How many of the figures reported on the sales listing were calculated; (2) how they tied to source documentation; and (3) a tie to financial statements. Therefore, we are assigning MRW the highest margin alleged in the petition as uncooperative BIA.

Fair Value Comparisons

To determine whether sales of subject merchandise from Germany to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. *See Initiation of Antidumping Duty Investigation of Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, Germany and Italy* (59 FR 37025, July 20, 1994).

Interested Party Comments

General Issues

Comment 1. MRW argues that petitioner lacks standing to seek the imposition of antidumping duties on products that it does not produce. According to MRW, petitioner has admitted that it is incapable of manufacturing seamless pipe and tube in dimensions above two inches in outside diameter. Therefore, respondent maintains that petitioner is not an ''interested party'' with respect to this merchandise. Accordingly, the Department should amend the scope of the investigation to limit it only to those dimensions and pipe types that petitioner has a proven ability to manufacture.

Gulf States Tube contends that the antidumping statute neither requires nor permits the Department to limit the scope of the investigation to products that the petitioner itself produces. Gulf States Tube also maintains that respondent's standing claim is untimely and may not be considered by the Department at this stage of the proceeding. Nevertheless, Gulf States Tube asserts that the issue is rendered moot by the request of Koppel Steel Corporation, a domestic producer of subject merchandise in sizes larger two inches in outside diameter, for co-petitioner status.

DOC Position. We agree with petitioner for the reasons outlined in the ''Standing'' section of this notice.

Comment 2. MRW contends that including an end-use certification requirement in the scope would be both illegal and unworkable. Respondent maintains that petitioner is effectively seeking to circumvent the established legal procedure by arguing for an open-ended scope definition that encompasses products that it does not manufacture and that petitioner has conceded are not causing present injury. In addition, respondent states that it is clear that any end-use certification procedure designed to implement such a scope definition is wholly unworkable because of the manner in which the subject products are sold. That is, in almost all cases the importer of record never knows the ultimate use of the pipe products it sells, and in many instances, neither do its customers. According to MRW, as a practical matter, the effect of an end-use certification requirement would be to ask the impossible of importers. Furthermore, respondent states that the anticircumvention procedures of the antidumping law provide ample remedy to petitioner in cases of circumvention via product substitution. MRW emphasizes that absent the detailed inquiry required by anti-circumvention legal provisions, the Department cannot include within the scope of this investigation other merchandise simply because such other products might in theory be utilized for the same purposes as pipe meeting the listed specifications. According to respondent, to do otherwise is contrary to the antidumping law and deprives respondents of their right to a full and fair hearing on any circumvention allegations that might be advanced by petitioner at some later date.

Petitioner argues that there is no factual or legal basis for eliminating end-use as a defining element of the scope of the investigation. Furthermore, not only is the feasibility of specific enforcement mechanisms irrelevant to the scope determination, but it is also untrue that any end-use certification procedure would be unworkable. According to petitioner, there is no evidence on the record of this investigation that an end-use certification program must require the submission of an end-use certificate by the importer at the time of importation. Rather, petitioner envisions a program whereby the end-use certificate travels with the pipe to the ultimate end-user, who may then send it back up the line of distribution. When final duties are assessed, the Department may assume that any pipe for which no certificates can be produced was used in subject applications. Contrary to MRW's arguments, petitioner maintains that the Department and the U.S. Customs Service are perfectly capable of administering an order that includes end use in its scope definition. In the event that products meeting the

physical description of subject merchandise, but which are not certified to one or more of the covered specifications are being substituted into one of the listed applications, the burden would be on the petitioner, other domestic producers or interested parties, to notify Customs and the Department with some objective evidence supporting a reasonable belief that substitution is occurring. However, it is both unnecessary and inappropriate at this point to engage in debate about the feasibility and desirability of specific end-use certification procedures. According to petitioner, the facts and policy considerations relevant to such a debate are not available on this record, and the selection of a specific enforcement mechanism is beyond the Department's responsibilities in this proceeding.

DOC Position. We disagree with respondent's assertion that including end-use in the scope of the investigation would be unlawful. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F. Supp. 1104 (CIT 1989). *See* the ''Scope Issues'' section of this notice for further discussion on end-use.

Comment 3. MRW contends that the carbon and alloy pipe products subject to investigation are distinct classes or kinds of merchandise. MRW asserts that the criteria set out in *Diversified Products* support a division between carbon and alloy products. Specifically, MRW argues that carbon and alloy pipes differ in terms of physical characteristics, uses, customer expectations and cost. With respect to physical characteristics, alloy seamless pipes contain higher grade steel than carbon seamless pipe, and because of their different chemistries, these products have different performance characteristics. With respect to end use which, according to respondent, is inherently tied to physical characteristics, carbon pipe is not as versatile as alloy steel pipe and is not suited for the more sophisticated applications, such as operations in high temperature environments. Respondent asserts that the Department has consistently emphasized the relationship between physical characteristics and end use in past cases (*e.g., Torrington Co.* v. *United States*, 745 F.Supp. at 726 (CIT 1990)). In addition, respondent states that customer expectations vary depending upon the ability of specific merchandise to perform a given task. With regard to alloy and carbon steel pipe, the ultimate purchaser does not expect these two types of pipe to be interchangeable, and is willing to pay more for alloy steel pipe because it must perform under more adverse conditions than those for which carbon pipe is suited. With respect to cost, respondent states that the cost of alloy pipe is higher than that of carbon pipe because of the more expensive raw materials and production costs incurred in producing alloy pipe. Finally, with respect to channels of trade, respondent states that carbon and alloy pipe move in similar channels; however, this factor is not determinative as to class or kind of merchandise.

Petitioner maintains that the subject merchandise constitutes a single class or kind. With respect to MRW's proposal for a split in class or kind on the basis of material composition, petitioner asserts that the factual evidence does not support such a division. Petitioner's state that the application of the criteria employed by the Department in *Diversified Products* compels the conclusion that there is a single class or kind of merchandise. According to petitioner, the physical characteristics of carbon and alloy pipe represent a single continuum of product produced with varying chemical compositions to meet a range of heat, pressure and tensile requirements. According to petitioner, there is simply no bright dividing line between the physical characteristics of the products. Petitioner states that the customer's expectations and use of the product are dictated by the engineering specification required by the intended application. Because the majority of all subject seamless pipe is triple-certified, the pipe may be put to any of the uses that apply to each of the individual specifications to which it is certified. Petitioner points out that the vast majority of seamless pipe is sold through the same channel of trade—distributors. Finally, petitioner adds that because the majority of seamless pipe is triple-certified, it has identical costs regardless of the customer to whom it is sold.

DOC Position. We agree with petitioner that the subject merchandise constitutes a single class or kind for the reasons outlined in the ''Scope Issues'' section of this notice.

Company-Specific Issues

For a number of reasons articulated in its briefs, with which we concur, petitioner argues that the final determination should be based on BIA, and that MRW should be found to be uncooperative.

MRW disagrees and argues that the Department's verification report does not offer a balanced assessment of the verification. MRW states that the Department verified the accuracy of its reported sales information and that the discrepancies found at verification were minor. Furthermore, respondent argues that the minor discrepancies detailed in the verification report should be evaluated in the context of the vast majority of data that tied exactly to source documentation. Respondent states that the minor discrepancies found at verification do not affect the Department's ability to perform its antidumping analysis.

Respondent states that the delays in providing information requested by the Department at verification were a result of the manner in which its records are kept in the ordinary course of business. MRW cites to *Nippon Pillow Block Sales Co.* v. *United States*, 820 F. Supp. 1444, 1449 (CIT 1993), and *Fresh Cut Roses from Colombia (Final)* 60 FR 6980, 7009 (February 6, 1995) as examples of Department policy that respondents cannot be penalized because of the way their records are kept.

Regarding its failure to include the costs of one of its plants in its reported difmer costs, MRW states the manner in which it reported difmer costs is reasonable given that this plant is a newly acquired facility located in the former German Democratic Republic, which was a non-market economy until recently. Furthermore, MRW states that it is extraordinarily difficult to calculate actual, verifiable costs for a plant that has operated under a planned economy and that it is appropriate to use the surrogate costs of a plant in the Federal Republic of Germany to perform antidumping calculations.

DOC Position. We agree with petitioner that the magnitude and nature of the problems found at verification require that we base MRW's margin on BIA. (*See Best Information Available (BIA)* section of this notice).

We disagree with respondent's assertion that it is being penalized for the way its records are kept. We must hold all respondents to a basic standard of accuracy and completeness at verification while taking into account the limitations existing with respect to the respondent's sales and cost accounting systems. We require all respondents, regardless of record keeping systems, to prepare for verification in such a manner that the Department's questions can be answered within a specified period of time. To this end, we supply all respondents with an outline which specifies the type of documentation that needs to be available at verification. MRW did not have the necessary documentation readily available, which prevented us from verifying its response. Most

significantly, respondents are expected to be forthcoming in their responses to the Department's requests for information. In this case, respondent failed to report fundamental information—cost data relating to one of its plants producing subject merchandise. In other words, respondent withheld information critical to verification and thus BIA is required.

Other Comments

Petitioner and respondent made additional comments on various charges and adjustments contained in MRW's home market and U.S. sales listings. However, since we are basing our final determination on BIA, we consider these comments to be moot.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Germany, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below for entries of seamless pipe from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
Mannesmannrohren-Werke AG	58.23
All Others	58.23

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 USC 1673(d)) and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14938 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–475–814]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dolores Peck or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4929 or 482–3965, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe (seamless pipe) from Italy is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the ''Act'') (1994). The estimated weighted-average margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since our negative preliminary determination on January 19, 1995 (60 FR 5358, January 27, 1995), the following events have occurred:

On February 1, 1995, we initiated a sales below cost investigation of the respondent, Dalmine, S.p.A. (''Dalmine''). We instructed Dalmine to respond to the complete cost questionnaire which it had previously used to only report constructed value data. Dalmine submitted its response to this questionnaire on March 7. Supplemental cost and sales responses and revisions were submitted in February, March, and April 1995.

On February 8, 1995, we postponed the final determination until not later than June 12, 1995 (60 FR 9012, February 16, 1995).

We conducted verifications of Dalmine's sales and cost questionnaire responses in Italy and the United States in March and April 1995. Verification reports were issued in May 1995.

On April 27, 1995, Koppel Steel Corporation, an interested party to this investigation, requested that it be granted co-petitioner status, which the Department granted.

The petitioner and the respondent submitted case briefs on May 18 and rebuttal briefs on May 24, 1995.

On May 22, and May 30, 1995, respectively, the Department returned the respondent's case and rebuttal briefs and instructed the respondent to refile the briefs redacting new information. The respondent did so on May 25, and June 2, 1995.

Scope of the Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20,

7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products [1], we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe,

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela,* 59 FR 1929, January 13, 1994.

then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989) (Ipsco). In Ipsco, the Department had clarified the scope of certain orders, in particular the phrase, ''intended for use in drilling for oil and gas,'' as covering not only API specification OCTG pipe but, '' 'all other pipe with [certain specified] characteristics used in OCTG applications * * *'' Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, see June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

[2] This approach is consistent with petitioner's request.

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 Fed. Reg. 18992, 18998 (May 3, 1989) (''*AFBs from Germany*''); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 Fed. Reg. 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 Fed. Reg. at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 Fed. Reg. at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

[t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds

[3] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from 1/2 inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 Fed. Reg. 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 Fed. Reg. 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 Fed. Reg. 22045 (May 9, 1995).

of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that ''the U.S. market'' recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as ''tubes'') are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution. Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness.* Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines ''interested party,'' *inter alia,* as a producer of the like product. For the reasons outlined in the ''Scope Issues'' section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18.) For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the ''Case History'' section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time,* and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it ''would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously.'' *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 Fed. Reg. 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 Fed. Reg. 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (''POI'') is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and the Department's regulations refer to these provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. We made fair value comparisons on this basis. In accordance with the Department's standard methodology, we first compared identical merchandise. Referencing Appendix V of our questionnaire, Dalmine states that the physical characteristics for the majority of the merchandise exported to the United States are identical to the physical characteristics of merchandise sold in the home market. We verified this claim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we based foreign market value (''FMV'') on constructed value (''CV'') because the difference in merchandise adjustment (''difmer'') for any similar product comparison exceeded 20 percent. See Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department.

Fair Value Comparisons

To determine whether sales of certain seamless pipe from Italy to the United States were made at less than fair value, we compared the United States price (USP) to the FMV, as specified in the ''United States Price'' and ''Price-to-Price Comparisons'' sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

We corrected certain clerical errors found at verification, including: (a) the reduction of the marine insurance expense for one sale (see U.S. verification report); b) an increase in the U.S. interest rate used to calculate imputed credit expenses (see U.S. verification report); and c) an increase in the percentage used to calculate an offset for home market commissions (See Comment 5 below). We also limited VAT adjustments to those sales on which VAT was paid on the comparison home market sale.

Cost of Production

Based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Dalmine made home market sales during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. See memorandum from the Team to Barbara Stafford dated February 1, 1995.

A. Calculation of COP

We calculated the COP based on the sum of the respondent's cost of materials, fabrication, general expenses, and home market packing in accordance

with 19 CFR 353.51(c). We relied on the submitted COP data, except in the following instances where the costs were not appropriately quantified or valued:

1. We recalculated the weighted average costs for two control numbers (''CONNUM''). CONNUM's are used to identify a group of products considered to be identical. See Comment 18 below.

2. We adjusted depreciation expenses to reflect mill- specific costs. See Comment 13 below.

3. We used the revised total indirect costs submitted at verification to recalculate the indirect cost allocation rate.

4. We disallowed the portion of the reported variance which resulted from reversals of prior period accounting entries. *See* Comment 17 below.

5. We used Instituto per la Ricostruzione Industriale S.p.A.'s (''IRI'') consolidated financing costs. IRI is the parent of Dalmine's parent company. See Comment 14 and 15 below.

B. Test of Home Market Sales Prices

After calculating COP, we tested whether, as required by section 773(b) of the Act, the respondent's home market sales of subject merchandise were made at prices below COP, over an extended period of time in substantial quantities, and whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP (net of selling expenses) to the reported home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' If between ten and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we discarded only the below-cost sales, provided sales of that product were also found to be made over an extended period of time. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.*, where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom,* 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain products more than 90 percent of the respondent's home market sales were sold at below COP prices over an extended period of time. Because Dalmine provided no indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, for all U.S. sales left without a match to home market sales as a result of our application of the COP test, we based FMV on CV, in accordance with section 773(b) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, general expenses and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(1)(B) (i) and (ii) of the Act, we included: (1) for general expenses, the greater of the respondent's reported general expenses, adjusted as detailed in the ''Calculation of COP'' section above, or the statutory minimum of ten percent of the cost of manufacture; and (2) for profit, the statutory minimum of eight percent of the sum of COM and general expenses because actual profit on home market sales for the respondent was less than eight percent. We recalculated the respondent's CV based on the methodology described in the calculation of COP above.

Price-to-Price Comparisons

We calculated FMV according to the methodology described in our preliminary determination with the following exceptions:

1. We excluded from our analysis reported home market sales that were sold for shipment to third countries. See Comment 5 below.

2. We revised the imputed credit calculation for transactions without reported payment dates, using the earliest verified payment date from the preselected sales in our verification report. *See* Comment 10 below.

3. We limited VAT adjustments to those sales on which VAT was paid.

4. We decreased the interest rate used to calculate imputed credit based on verified data. See home market verification report.

Price-to-CV Comparisons

Where we made CV to purchase price comparisons, we deducted from CV the weighted-average home market direct selling expenses and added the U.S. product-specific direct selling expenses. We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2). Because commissions were paid on some, but not all home market sales, we deducted from CV both (1) indirect selling expenses attributable to those sales on which commissions were not paid; and (2) weighted average commissions. The total deduction was capped by the amount of indirect expenses paid on the U.S. sales in accordance with 19 CFR 353.56(b)(1) (1994).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York, pursuant to 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified information provided by Dalmine by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Sales Issues

Comment 1

The petitioner contends that a margin based on the best information available (BIA) should be assigned to each of the

unreported sales of subject merchandise discovered at verification; stating that there is no evidence on the record that Dalmine made a request to have these sales excluded. Additionally, the petitioner asserts that the respondent's unilateral exclusion of certain pipe sales without notice to or permission from the Department was a deliberate and material omission which affected the Department's decision to excuse the respondent from reporting certain categories of sales. Had the Department known about the totality of the exclusion being requested, it would not have excused the respondent from reporting these sales.

The respondent argues that its non-reported sales fall into the category of merchandise produced to a subject specification, but which are used in a non-subject application. Thus, these sales are outside the scope and therefore need not be reported. Since these unreported sales involved non-subject merchandise, no exclusion request was necessary. The respondent contends it only requested exclusions for products produced to subject specifications and used in subject applications, in accordance with the Department's published scope language.

DOC Position

We agree in part with the petitioner. With respect to certain unreported sales of merchandise which was the subject of the respondent's exclusion request, we agree that BIA is appropriate. In the early stages of this investigation, the respondent made several requests to be excused from reporting particular categories of U.S. sales which were clearly covered by the scope of this investigation. The respondent based this exclusion request on the claim that these sales represented a certain percentage of total U.S. sales. Based on this representation, we granted the request but indicated that the claim would be subject to verification. At verification we found additional unreported sales of the same merchandise that was the subject of the respondent's exclusion request. These additional unreported sales constitute a significant additional quantity than was represented in the exclusion request. Accordingly, we have assigned a margin based on BIA to the U.S. sales involved in the exclusion request, as well as the additional unreported sales of the same merchandise.

With regard to the other unreported sales discovered at verification, we agree that the merchandise is within the scope of this investigation. However, we have decided that the use of adverse BIA for these unreported sales is unwarranted. As discussed above (see the Miscellaneous Scope Clarification Issues and Exclusion Requests section of this notice) the scope language, as published in the notice of initiation and the preliminary determination, was unclear as to whether the products in question are subject merchandise. The respondent did not report these sales based on its reading of the scope of the initiation. Since the scope language in the initiation is ambiguous (and hence has been clarified in the final determination), it is not appropriate to penalize the respondent.

Comment 2

The petitioner urges the Department to apply a BIA margin to one unreported U.S. sale of subject merchandise discovered during verification. According to the petitioner, the Department should view Dalmine's failure to report this sale against the background of the respondent's failure to report other sales of subject merchandise, and apply an adverse BIA margin.

The respondent acknowledges that it inadvertently failed to report this sale. According to the respondent, the order for this unreported sale appeared to be filled when it reported its U.S. sales data. However, two months later, the respondent made an additional shipment pursuant to this order, which was mistakenly not loaded with the first two parts of the order. The respondent claims it did not attempt to identify subsequent shipments pursuant to this order, since it considered this order filled at the time it prepared the sales listing. Only in the course of preparing for verification did the additional invoice amount come to the company's attention.

DOC Position

We agree with the petitioner, in part. The respondent made several shipments of subject merchandise pursuant to a customer's order. Each of the shipments were separately invoiced. Two of the invoices were reported in the respondent's sales listing. However, the respondent failed to report one invoice for a small amount of subject merchandise sold pursuant to this order. The facts do not support applying an adverse BIA margin to this sale. Instead, as BIA, we applied the average of all positive margins calculated for the remaining U.S. sales.

Comment 3

The petitioner claims the respondent misreported home market freight charges because it reported a calculated amount based on certain assumptions rather than an actual amount. Therefore, the petitioner urges the Department to use the lowest freight expense in the home market response as the freight expense for all sales for its price to price comparisons. For the Department's price to cost comparisons, the Department should consider the highest freight charge for any home market sale to be the freight charge for all home market sales.

In reply, the respondent argues that it would have been extraordinarily burdensome, if not impossible, to match specific freight invoices to specific shipments because freight invoices are not computerized. At verification, the respondent demonstrated it was impractical to link thousands of freight invoices to the specific shipments to which the invoices related. Therefore, the respondent calculated the reported freight charges from published tariff rates by assuming all shipments were part of a full truck load that was delivered to more than one location. The respondent claims that the Department verified that its freight estimates are reasonable and any differences between estimated amounts and actual freight charges are minor.

DOC Position

We agree with the respondent. At verification, we noted that, while Dalmine maintained computerized databases regarding all sales and cost information, it did not maintain invoice-specific expense data in its computerized sales database. At verification the invoice-specific actual expenses, calculated to check the information in the sales response, had to be calculated manually and there was some difficulty in obtaining source documentation.

At verification, we examined the respondent's methodology for calculating estimated freight expenses. We compared actual freight expenses with the reported estimated freight expenses, and noted only minor discrepancies between these two figures. Therefore, the use of BIA for this adjustment is not warranted.

Comment 4

The petitioner urges the Department to disallow the home market credit expense adjustment in its dumping margin calculation because the respondent overstated substantially credit costs by reporting March 6, 1995, as the payment for all sales unpaid as of November 1994. The petitioner also claims the home market credit expense adjustment should be disallowed because verified credit differed from the actual credit for six of the eight

preselected sales. Further, the petitioner asserts that the respondent failed to take into account certain outstanding short-term loan balances in its calculation of the interest rate used to compute credit costs. Finally, the petitioner cites page 54 of the Department's Italian verification report where it claims the Department notes that the payment dates reported by Dalmine were either incorrect or not available.

The respondent admits that it did not update payment data in its home market sales listing after the submission of December 19, 1994 (which reported all payments as of November 25, 1994). Nevertheless, the respondent acknowledges that, for purposes of calculating imputed credit costs in its March 6, 1995, filing, it assumed incorrectly that all sales unpaid as of November 1994 remained unpaid as of March 6, 1995. As a result, the imputed credit calculation was wrong for sales paid between November 25, 1994, and March 6, 1995. The respondent urges the Department to calculate the imputed credit cost adjustment for all sales for which no home market payment date was reported using November 1, 1994, as the date of payment, since this is a more conservative approach than that employed in the Preliminary Determination.

DOC Position

We disagree with both the petitioner and the respondent. During the Italian verification, we were able to verify the payment dates for preselected and surprise home market sales. The petitioner's reference to page 54 of the Italian sales verification report in support of its statement that payment dates were not available for sales not paid after November 23, 1994, is incorrect. The Italian sales verification report in its entire discussion of payment dates and credit expenses makes no statement regarding the unavailability of payment dates. We used the earliest verified payment date, November 18, 1994, as the payment date in the credit expense calculation for sales without reported payment dates which were shipped before November 18, 1994. We assumed no credit expenses were incurred for sales without reported payment dates which were shipped after November 18, 1994.

Comment 5

The petitioner argues that the respondent incorrectly based its commission offset on U.S. indirect selling expenses taken from Dalmine's U.S. subsidiary's (TAD USA's) 1993 SG&A expenses. The petitioner maintains that the Department must use the verified 1994 SG&A expenses to the extent that it offsets home market commissions.

According to the respondent, it acted reasonably in basing the indirect selling expenses in its questionnaire response on 1993 SG&A expense data, given that 1994 data was unavailable at the time the response was being prepared. The respondent concedes that the 1994 data obtained at verification would be more useful to the Department than the 1993 data.

DOC Position

It is the Department's practice to use the most recent verified data for indirect selling expenses in our margin calculations. Accordingly, we used the verified 1994 SG&A figures in our final determination calculations.

Comment 6

The petitioner claims that Dalmine incorrectly reported average rather than actual foreign inland freight on U.S. sales. The petitioner also claims that the respondent could have reported actual foreign inland freight charges because its records are computerized. Therefore, the petitioner urges the Department to assign the highest foreign inland freight charge observed at verification to all U.S. sales.

In reply, the respondent claims the difference between the highest foreign inland freight charge used in its calculation of average freight and the average foreign inland freight reported for all U.S. sales is immaterial. Moreover, the respondent maintains that its inland and ocean freight documents are not computerized.

DOC Position

We agree with the respondent. There is no evidence that the respondent's automated system allowed it to link individual sales with the freight charges incurred for those sales. At verification, we noted the actual per unit foreign inland freight charges for the U.S. preselected sales did not differ materially from the average charge reported in the sales listing.

Comment 7

In its case brief, the respondent requests that the Department clarify which of its customers are related within the meaning of the U.S. antidumping duty law.

In its rebuttal brief, the petitioner claims that there is no need to make this distinction for the purposes of the final determination. Should the Department address such an issue, the petitioner requests that it do so in a manner consistent with any findings made in the *Antidumping Duty Investigation of Oil Country Tubular Goods from Italy* (A–475–816).

DOC Position

We agree with the petitioner that such a finding is unnecessary. The respondent identified all related parties in its questionnaire response. We verified the accuracy of that response (*see* page 6 of our home market verification report). No further determination is necessary.

Comment 8

The respondent argues that tubes and pipes are distinct products, and urges the Department to clarify that the scope of this proceeding is limited to pipes. In its case brief, the respondent included an affidavit from a steel pipe and tube expert in which the expert explains that hollow steel products known as ''pipe'' have specific technical and commercial characteristics distinct from those hollow steel products commonly known as ''tubes.'' According to this expert, the pipe producing and consuming industries consider pipe to be a product with any combination of outside diameter (''OD'') and wall thickness set forth in the American Society for Testing Materials (''ASTM'') standard B36.10. This expert reports that hollow steel products that do not correspond to the OD and wall specifications set forth in this standard are not pipes. The respondent's expert also cites numerous reasons why products produced to non-pipe sizes are normally not used in subject pipe applications. Finally, the respondent notes that according to the American Iron & Steel Institute, tubing, as distinguished from pipe, is normally produced to outside or inside diameter dimensions and to a great variety of diameters and wall thicknesses, and to chemical compositions and mechanical properties not commonly available in pipe. Therefore, the respondent requests that the Department clarify that products produced to non-pipe dimensions are not subject to this investigation.

The petitioner argues that the petition and the published scope expressly state that subject seamless pipe includes all outside diameters not exceeding 4.5 inches regardless of wall thickness. The petitioner contends that the specifications covered by the scope of this investigation allow products to be made to non-standard dimensions and notes that neither the petition, nor the published scope, distinguishes between pipes and tubes. In addition, the petitioner states that the ITC found a single like product containing both pipes and tubes using an analysis

similar to that employed by the Department. Finally, the petitioner argues that respondent's own sales invoices and internal records refer to products made to non-standard dimensions as pipes.

DOC Position

We agree with the petitioner. *See* Scope clarification discussion in the body of this notice above.

Comment 9

The petitioner maintains that pipe and tube subject to this investigation constitutes a single class or kind of merchandise. The respondent did not comment on the class or kind issue in its case or rebuttal briefs.

DOC Position

We agree with the petitioner. *See* Class or Kind discussion in the body of this notice above.

Comment 10

The petitioner asserts that the respondent's home market sales data contains a multitude of errors that render it unsuitable for calculating an accurate FMV. Combined with substantial unreported U.S. sales and misreported costs, the petitioner considers it appropriate for the Department to base the final determination on BIA (petitioner cites *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Brazil*, 57 FR 42940 (September 17, 1992)).

The respondent claims that the discrepancies mentioned by the petitioner are immaterial and the use of BIA is unwarranted.

DOC Position

We agree with the respondent that the use of total BIA is unwarranted. Based on the facts on the record, we believe the errors discovered at verification are minor in nature, and resulted from oversight or mathematical rounding. In addition, the lack of clarity in the scope, as published in the notice of initiation and the preliminary determination, may have resulted in respondent misinterpretation. The possibility that some of the unreported sales discovered at verification were not reported because the respondent misinterpreted the scope cannot be overlooked in our decision to accept or reject the home market sales response.

However, we made certain adjustments to the home market sales listing based on our findings at verification. Specifically, we deleted sales of small quantities of subject merchandise which were unlikely to be shipped and sales which the respondent believed would be exported to a country other than the United States. *See* the June 12, 1995 concurrence memorandum to Barbara Stafford from the Team for a complete discussion of this issue.

Cost Issues

Comment 11

The petitioner maintains that Dalmine understated its depreciation expense by excluding improperly the costs associated with 1993 fixed asset write-downs. Such costs, according to the petitioner, should be amortized over a number of years, including the POI. The petitioner argues that the Department should adjust the COP/CV figures by including a portion of the 1993 fixed asset adjustment.

The respondent claims that the 1993 adjustment referred to by the petitioner is not related to fixed assets, but is the adjustment to Dalmine's investment in its subsidiaries. The amount of the adjustment represents the operating losses of those subsidiaries. The respondent argues that, even if the adjustment had involved the company's fixed assets or inventory, it still should not be included in COP/CV as none of the subject merchandise sold during the POI was produced in 1993.

DOC Position

We agree with the respondent. The write-downs referred to by the petitioner are identified in Dalmine's 1993 annual report as write-downs due to the operating results of subsidiaries, associated companies and to an adjustment of the shareholder's equity of two subsidiaries. Accordingly, these write-downs are not related to the respondent's production activities or the subject merchandise and, therefore, we did not adjust the reported COP/CV figures.

Comment 12

The petitioner claims that Dalmine understated its depreciation expense by excluding improperly depreciation of its idle equipment. Although Italian generally accepted accounting principles (GAAP) may permit this practice, the petitioner argues that the Department should not allow the respondent to exclude depreciation of idle assets since this treatment creates distortions. The petitioner further states that the Department's long-standing practice is to include depreciation on idle assets in calculating COP and CV because such assets represent a cost to the company. To support this statement, the petitioner cites *Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom*, 58 FR 39729, 37756 (1993) (*Antifriction Bearings*). The petitioner asserts that the Department should write off the remaining book value of the idle assets and allocate the expense to the POI, because the petitioner is unable to determine their remaining useful lives.

The respondent argues that it properly excluded depreciation expense relating to its assets because the facility is permanently closed and such accounting treatment is in accordance with Italian GAAP (*Iron Construction Castings From India*, 51 FR 9486, 1988). If the Department were to impute depreciation expense for the assets in the closed facility, the respondent argues we should allocate the imputed depreciation over 16 years, the average life of the fixed assets, rather than expensing the remaining book value of the idle assets during the POI.

DOC Position

The fixed assets in question relate to one of the respondent's facilities which is no longer in operation. The land and building housing these fixed assets have been sold and the company is currently attempting to sell the equipment. Italian GAAP requires the recognition of a loss on discontinued operations in the income statement, but the appropriate period of recognition is not defined. The respondent, in its normal books and records, has yet to recognize a gain or loss from the remaining assets of the discontinued operation.

The assets in question relate clearly to discontinued operations from a prior period and are no longer productive assets; they are merely awaiting sale. Accordingly, we do not consider the respondent's normal accounting treatment of these assets to be unreasonable. The *Antifriction Bearings* case cited by the petitioner is not controlling because it involved operations which were *temporarily* idle, while Dalmine's facility is *permanently* closed.

Additionally, had we considered the respondent's accounting treatment to be unreasonable and treated the discontinued operations in accordance with U.S. GAAP, we would consider the loss to be related to the year in which the decision was made to discontinue the operations, which was prior to the POI. Upon disposal of these assets, the gain or loss on the sale will be included on the respondent's income statement and we will include the gain or loss in COP/CV, if an order is issued and an administrative review conducted.

Comment 13

The petitioner argues that Dalmine improperly allocated depreciation expense using internal management reports instead of the mill-specific fixed asset ledgers which are kept in the normal course of business. The management reports, according to the petitioner, are used for allocating plant-wide depreciation expense to specific mills, but do not properly take into account the actual plant and equipment used in manufacturing. Instead, the petitioner claims, the submitted allocation method shifted costs from cost centers producing the subject merchandise to cost centers producing non-subject merchandise. The petitioner urges the Department to apply BIA because an analysis they performed suggests that the respondent applied an unusually slow rate of depreciation.

The respondent claims that it did not understate reported depreciation costs, as the verification report suggested, and argues that it may, in fact, have overstated its reported depreciation costs. Dalmine asserts that the internal management reports used to calculate depreciation for the submission segregate separately depreciation by mill and are not used for company-wide allocations. It also maintains that the depreciation expense for equipment used to produce the subject merchandise, as reported in the company's fixed asset ledgers, is substantially less than the depreciation expense which was reported in the submitted COP/CV data.

DOC Position

We agree with the petitioner, in part. The respondent reported its depreciation expense consistent with the way its cost accounting system allocates it to specific mills in the ordinary course of business. However, we believe that the use of its normal cost accounting methodology may not be a reasonable and accurate methodology as it does not properly take into account the actual plant and equipment used in manufacturing the subject merchandise. We consider the mill-specific fixed asset ledgers to be the most accurate basis for allocating depreciation expense to specific products. Therefore, we used the mill-specific depreciation expense.

We note that the petitioner's analysis regarding the unusually slow depreciation rate is flawed because it did not properly consider the cost of some fixed assets, such as land, which are not depreciated, and the cost of other fixed assets, which have long useful lives.

Comment 14

The petitioner argues that the Department should reject Dalmine's reported financing costs because Dalmine failed to disclose the fact that its financial results are consolidated with the financial results of its parent, ILVA S.p.A., in liq. (ILVA). These financial results are, in turn, consolidated with the financial results of ILVA's parent, IRI. The petitioner asserts that the Department calculates interest expense on a consolidated basis, unless the financial structure of the parent and the operating subsidiary are clearly not integrated, or there are no reliable audited consolidated financial statements. According to the petitioner, neither of these exceptions are applicable in this case.

The petitioner also contends that the Department should reject the respondent's argument that Dalmine's 1994 interest costs should be used instead of IRI's 1993 interest costs because the Dalmine-based figures are more closely correlated to the POI. The petitioner argues for the application of BIA in the final determination. However, if the Department determines that total BIA is inappropriate, then the petitioner believes the Department should calculate financing costs using IRI's 1993 audited financial statement information.

The respondent claims that it properly reported interest expense based on the consolidated financing costs incurred at the Dalmine level, rather than at the consolidated IRI level. In support of its claim, the respondent states that IRI does not exercise control over Dalmine's operations or its capital structure. In addition, the respondent maintains that using IRI's consolidated financial expenses would distort Dalmine's true financing costs because IRI's financing costs include expenses for entities which are dissimilar to Dalmine. Additionally, the respondent points out that IRI's 1994 audited consolidated financial statements were not available at verification and only its 1993 audited consolidated financial statements are on the record. However, Dalmine's 1994 audited consolidated financial statements are on the record and, according to the respondent, they are more relevant because they encompass the entire POI. Lastly, the respondent objects to the petitioner's insinuation that it attempted to mislead the Department by failing to disclose that its financial results are consolidated with the financial results of IRI. The respondent asserts that this information was not provided since it was not requested in the Department's questionnaires. When the Department did request IRI's consolidated financial data at verification, the respondent provided this information.

DOC Position

We agree with the petitioner, in part. The Department's long-standing practice is to calculate interest expense for COP/CV purposes from the borrowing costs incurred by the consolidated group. *Silicon Metal From Brazil,* 56 Fed. Reg. at 26,986 (1991). This methodology, which has been upheld by the CIT in *Camargo Correa Metals, S.A. v. U.S.,* Slip Op 93–163 (CIT 1993), is based on the fact that the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. IRI has such power since it owns a substantial majority of Dalmine through ILVA. In addition, although the respondent claims that IRI does not exercise control over Dalmine's operations, it is the Department's position that majority equity ownership is prima facie evidence of corporate control. *See, e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, (Minivans)* 57 FR 21946 (May 26, 1992) The respondent has not presented sufficient evidence to demonstrate that IRI's consolidated financing expense would distort Dalmine's financing costs. In *Minivans,* we determined that, as a member of a consolidated group of companies, the operations of a financing company remain under the controlling influence of the group. Like other members of the consolidated group, the financing company's capital structure is determined largely within the group. Consequently, its interest income and expenses are as much a part of the group's overall borrowing experience as any other member company.

Lastly, we do not consider it more appropriate to use Dalmine's 1994 consolidated figures over IRI's 1993 consolidated figures simply because Dalmine's audited information more closely relates to the time period of the POI. We have no reason to believe that IRI's 1993 audited financial statement interest expense data is not representative of the POI.

Comment 15

The petitioner believes the Department should not allow the respondent to offset its IRI level financing costs with short-term interest income because the reported interest income included both short and long-term interest income.

The respondent claims that the Department should reduce Dalmine's interest expenses by long and short-term

interest income since both long and short-term investments arise from the company's current operations. The respondent argues that it must earn revenue from its current operations in order to make long and short-term investments. Therefore, it is illogical for the Department to only consider short-term interest income to be related to current operations. Additionally, the respondent notes that treating short and long-term interest income differently contradicts the Department's fungibility of money argument. The respondent claims that the Department should recognize the symmetrical nature of interest income and expense and calculate a true net interest cost which would take long-term interest income into account.

DOC Position

We agree with the respondent, in part. It is the Department's practice to allow a respondent to offset financial expenses with interest income earned from the general operations of the company. *See, e.g., Timkin v. United States,* 852 F. Supp. 1040, 1048 (CIT 1994). The Department does not, however, offset interest expense with interest income earned on long-term investments because long-term interest income does not relate to current operations. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Results of Antidumping Duty Administrative Review,* 56 FR 31734 (July 11, 1991). The company did not provide a break-down of short and long-term interest income for IRI. However, we were able to determine the amount of short-term interest income for the consolidated IRI group from verification exhibits and have applied short-term interest income as an offset to Dalmine's financing costs.

Comment 16

The petitioner contends that the Department should not allow the respondent to offset production costs with foreign exchange gains because the gains were not verified by the Department.

The respondent maintains that, contrary to the verification report, it does not associate exchange gains and losses with particular transactions. The respondent states that it classifies exchange gains and losses as part of the company's general expenses and it urges the Department to accept this treatment of these exchange gains and losses. As an alternative to including both foreign exchange gains and losses in its financing cost calculation, the respondent argues that the Department should exclude both gains and losses. The respondent states in its brief that it was not aware of the Department's treatment of exchange gains and losses until it received the verification agenda where the distinction was explicitly noted.

DOC Position

We agree with the petitioner. It is the Department's normal practice to distinguish between exchange gains and loses from sales transactions and exchange gains and losses from purchase transactions. *See, e.g., Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela,* 59 FR 55436 (November 7, 1994) (*Silicomanganese*). Accordingly, the Department does not include exchange gains and losses on accounts receivable because the exchange rate used to convert third-country sales to U.S. dollars is that in effect on the date of the U.S. sale. (See 19 CFR 353.60). The Department includes, however, foreign exchange gains and losses on financial assets and liabilities in its COP and CV, calculation where they are related to the company's production. Financial assets and liabilities are directly related to a company's need to borrow money, and we include the cost of borrowing in our COP and CV calculations. See *Silicomanganese.* The respondent did not provide any substantiation for the exchange gains and losses reflected in either Dalmine's financial statements or IRI's financial statements. However, Dalmine did state at verification that exchange gains are generally from sales transactions and exchange losses are generally from purchase transactions. We therefore adjusted the interest expense rate calculation to include IRI's exchange losses and exclude IRI's exchange gains.

Comment 17

The petitioner argues that the Department should disallow the portion of the LIFO variance adjustment which is comprised of reversals of accruals and other reserves. The petitioner claims that these accruals and reserves were established in prior accounting periods and do not relate to POI production. According to the petitioner, allowing such reversals provides companies that have advance knowledge of a dumping case with a simple means of shifting costs out of the POI.

The respondent contends that it included properly reversals of 1993 accruals and write-downs in its COP/CV costs. Dalmine claims that the Department's general practice is to include accruals which are recognized in the respondent's audited financial statements in the COP/CV calculations. According to the respondent, this treatment necessitates the inclusion of any accrual reversals in COP/CV calculations for the period in which the respondent recognizes the reversal. Otherwise, the respondent claims, the Department would be overstating the company's total costs.

DOC Position

We agree with the petitioner. We do not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals and write-downs of equipment and inventory. The subsequent year's reversal of these estimated costs does not represent revenue or reduced operating costs in the year of reversal. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France,* 58 FR 37079 (July 9, 1993). Rather, they represent a correction of an estimate which was made in a prior year. If the Department is able to verify that an operating expense accrual or an equipment or inventory write-down recorded during the POI is subsequently adjusted because the company overestimated the cost, we will use the corrected figure, but only for the same period in which the accrual or write-down occurred. However, absent any verified information supporting the overestimation of cost, we have no choice but to rely on the amounts recorded by the company. The fact that a company is unable to determine that it over accrued certain costs in time for verification does not justify distorting the actual production costs incurred in a subsequent year by reducing subsequent year costs by the overestimated amount. In the present case, since the accruals and write-downs did not occur during 1994, it would be inappropriate to recognize the reversals of such entries in the reported costs.

Comment 18

The petitioner asserts that Dalmine has not reported the COP and CV for all of the subject merchandise sold in the U.S. during the POI. This assertion is based on the fact that Dalmine did not calculate a weighted average cost for CONNUM's 45 and 108, because the company did not produce those products during the POI. The petitioner claims that a significant percentage of U.S. sales during the POI were for control numbers not produced during the POI. The petitioner argues that the

Department should increase the submitted COP and CV for the two products sold in the U.S. during the POI, but produced prior to the POI, because Dalmine was less profitable in 1993.

The respondent maintains that it calculated the average COP and CV for CONNUM's 45 and 108 by using a simple average of the cost of the products that comprise each CONNUM rather than a weighted average with a weighting factor for the cost of products not produced during the POI. Thus, the respondent contends that it properly reported actual contemporaneous cost information.

DOC Position

We agree with the respondent. Dalmine used a simple average of the cost of the products that comprised CONNUM's 45 and 108 and our statement in the verification report that the respondent used a weighting factor for some of the products in its cost calculation for CONNUM's 45 and 108 is inaccurate. We calculated COP/CV by weight averaging the average costs of products classified within those CONNUM's by the production quantities which we obtained at verification.

We disagree with the petitioner's claim that the Department should increase the submitted cost data for the products produced prior to the POI because the company was less profitable in the prior year. The Department tested Dalmine's standard costs as adjusted to actual costs at verification and determined that these costs actually reflect the costs incurred during the POI.

Comment 19

The petitioner contends that Dalmine understated its reported general and administrative (G&A) expenses as it failed to include an allocation of G&A expenses incurred by ILVA and IRI. Because Dalmine failed to disclose that it was consolidated with ILVA and IRI, the petitioner believes that, as BIA, the Department should add the G&A expenses calculated from ILVA's 1992 financial statements and IRI's 1993 financial statements to the amounts reported by Dalmine.

The respondent maintains that the Department verified that an appropriate share of parent company management costs was included in the submitted COP/CV data.

DOC Position

We agree with the respondent. It is the Department's practice to include a portion of the G&A expenses incurred by affiliated companies on the reporting entity's behalf in total G&A expenses for COP/CV purposes. *Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe from Malaysia,* 59 Fed. Reg. 4023, 4027 (Jan. 28, 1994); *Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela,* 58 Fed. Reg. 27524 (May 10, 1993); *Final Determination of Sales at Less Than Fair Value: Sweaters from Hong Kong,* 55 Fed. Reg. 30733 (July 27, 1990); *Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephones and Subassemblies Thereof from Korea,* 54 Fed. Reg. 53141 (Dec. 27, 1989). In the present case, the respondent included a portion of Dalmine's G&A expenses and the G&A expenses of its producing subsidiary in the submitted G&A expenses. We identified no parent company costs allocable to Dalmine.

Comment 20

The petitioner questions whether all steel mill variances have been captured because steel bar costs have been reported exclusively on the basis of standard costs. The petitioner claims that price and efficiency variances for the steel mill were excluded from the ratio used to allocate variances to each product.

The respondent claims that the Department verified that the steel mill variance was properly allocated to the subject merchandise.

DOC Position

We agree with the respondent. The steel mill net profit reported on the respondent's management report was zero after all steel mill costs were allocated to producing mills, based on steel usage by the mills. Therefore, all steel mill activity, including variances, was properly allocated to the producing mills.

Suspension of Liquidation

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of seamless standard, line and pressure pipe from Italy that are entered or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin (percent)
Dalmine	1.84
All Others	1.84

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure or threaten injury to a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protection order (''APO'') in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.4(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d))and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14939 Filed 6–16–95; 8:45 am]

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[C–475–815]

Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe (''Seamless Pipe'') From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0588.

FINAL DETERMINATION: The Department determines that benefits which constitute subsidies within the meaning

of section 701 of the Tariff Act of 1930, as amended (''the Act''), are being provided to manufacturers, producers, or exporters in Italy of seamless pipe. For information on the estimated net subsidies, please see the Suspension of Liquidation section of this notice.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), which has been withdrawn, are provided solely for further explanation of the Department's CVD practice.

Case History

Since the publication of the preliminary determination in the **Federal Register** (59 FR 60774, November 28, 1994), the following events have occurred.

On December 23, 1994, we aligned the final countervailing duty determination in this investigation with the final determination in the companion antidumping investigation of seamless pipe from Italy (59 FR 66296).

We conducted verification of the responses submitted on behalf of the Government of Italy (''GOI''), and Dalmine S.p.A. (''Dalmine'') from January 22 through January 27, 1995.

On April 19, 1995, we postponed the final determination in this case to June 12, 1995 (60 FR 19571).

On May 2, 1995 we received a case brief from respondent. Neither petitioner or respondent requested a hearing in this investigation.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section of the final determination in the companion antidumping case of seamless pipe from Italy.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are

covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another countervailing duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Dalmine has raised a scope issue in this investigation. The Department has addressed all scope issues in the final determination of the companion antidumping investigation of seamless pipe from Italy.

Injury Test

Because Italy is a ''country under the Agreement'' within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (''ITC'') is required to determine whether imports of seamless pipe from Italy materially injure, or threaten material injury to, a U.S. industry. On August 3, 1994, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Italy of the subject merchandise (59 FR 42286, August 17, 1994).

Corporate History of Respondent Dalmine

Prior to its liquidation in 1988, Finsider S.p.A. (''Finsider'') was the holding company for all state-owned steel companies in Italy, including Dalmine. Dalmine was an operating company wholly owned by Finsider. After Finsider's liquidation, a new government-owned holding company, ILVA S.p.A. (''ILVA''), was created. ILVA took over the former Finsider companies, among them Dalmine, which became a subsidiary of ILVA in 1989 when Finsider's shareholding in Dalmine was transferred to ILVA.

Between 1990 and 1993, Dalmine itself was radically restructured. Dalmine became a financial holding company, with industrial, trading, and service shareholdings. As part of its restructuring, Dalmine made several asset purchases, sold two of its subsidiaries to private parties, and closed several manufacturing facilities. As of December 31, 1993, the Dalmine Group consisted of a holding company (Dalmine S.p.A.), four wholly-owned, and one majority-owned, manufacturing companies, and a number of sales and service subsidiaries.

During the POI, ILVA was owned by the Istituto per la Ricostruzione Industriale (''IRI''), a holding company which was wholly-owned by the GOI.

Spin-offs

In its questionnaire response, Dalmine reported that between 1990 and 1991, as part of its overall restructuring process, the company twice sold ''productive units'' to private buyers. According to Dalmine, these sales involved facilities that do not produce the subject merchandise. In the preliminary determination, we determined that the amount of potentially spun-off benefits was insignificant. We did not learn anything at verification that would lead us to reverse this determination. Therefore, we have not reduced the subsidies allocated to sales of the subject merchandise. (See Final Concurrence Memorandum dated June 12, 1995).

Equityworthiness

Petitioner has alleged that Dalmine was unequityworthy in 1989, the year it received an indirect equity infusion from the GOI, through ILVA S.p.A. (''ILVA''), and that the equity infusion was, therefore, inconsistent with commercial considerations.

In accordance with section 355.44(e)(1) of the Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (''Proposed Regulations''), 54 FR 23366, May 31, 1989)), we preliminarily determined that ILVA's purchase of Dalmine's shares was consistent with commercial considerations because Dalmine provided evidence that private investors, unrelated to Dalmine or the GOI, purchased a significant percentage of the 1989 equity offering, on the same terms as ILVA. We did not learn anything at verification that would lead us to reverse this finding. Therefore, the Department determines that ILVA's purchase of Dalmine's shares was consistent with commercial considerations.

Creditworthiness

Petitioner has alleged that Dalmine was uncreditworthy in every year between 1979 and 1993. In accordance with section 355.44(b)(6)(i) of the Proposed Regulations, we preliminarily determined that Dalmine was creditworthy from 1979 to 1993. In making this determination we examined Dalmine's current, quick, times interest earned, and debt-to-equity ratios, in addition to its profit margin. Specifically, although a number of the financial indicators are weak for certain years, none of the indicators are weak over the medium or long term, and when examined together on a yearly basis, the indicators support the determination that Dalmine was creditworthy in every year examined. (See also Creditworthy Memorandum, November 18, 1994). In addition, Dalmine received long-term, commercial loans from private lenders in several of the years examined.

We did not learn anything new at verification that would lead us to reconsider our preliminary determination. Therefore, we continue to find that Dalmine was creditworthy from 1979 to 1993.

Benchmarks and Discount Rates

Dalmine did not take out any long-term, fixed-rate, lire-denominated loans in any of the years of the government loans under investigation. Therefore, in accordance with section 355.44(b)(4) of the Proposed Regulations, in our preliminary determination we used, as the benchmark interest rate, the Bank of Italy reference rate which was determined in Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy (''Certain Steel from Italy''), 58 FR, 37327 (July 9, 1993), to be both the best approximation of the cost of long-term borrowing in Italy and the only long-term fixed interest rate commonly available in Italy. We also used this rate as the discount rate for allocating over time the benefit from non-recurring grants for the same reasons as explained in Final Affirmative Countervailing Duty Determination: Certain Steel Products from Spain, 58 FR 37374, 37376 (July 9, 1993).

At verification, we learned that the Bank of Italy reference rate reflects the cost for Italian banks to borrow long-term funds. Therefore, the reference rate does not incorporate the mark-up a bank would charge a corporate client when making a long-term loan. Long-term corporate interest rate data is not available in Italy. Accordingly, we have adjusted the reference rate used in the preliminary determination upward to reflect the mark-up an Italian bank would charge a corporate customer.

In order to approximate this mark-up, we calculated the difference between the average short-term corporate borrowing rate in Italy and the average interest rate on short-term Italian government debt, for each year in which Dalmine received long-term lire loans or non-recurring grants from the government. We then added this mark-up to the Italian reference rate used in the preliminary determination to approximate an average long-term corporate benchmark interest rate. We also used these rates as the discount rates for allocating over time the benefit from non-recurring grants. *See Certain Steel Products from Spain,* 58 FR at 37376.

For long-term loans denominated in other currencies, we used, as the benchmark interest rate, an average long-term fixed interest rate for loans denominated in the same currency. (See section E—Article 54 Loans below.)

Calculation Methodology

For purposes of this determination, the period for which we are measuring subsidies (the POI) is calendar year 1993. In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the benefit attributable to the POI for each countervailable program, using the methodologies described in each program section below. For each program, we then divided the benefit attributable to Dalmine in the POI by Dalmine's total sales revenue, as none of the programs was limited to either certain subsidiaries or products of Dalmine. Next, we added the benefits for all programs, including the benefits for programs which were not allocated over time, to arrive at Dalmine's total subsidy rate. Because Dalmine is the only respondent company in this investigation, this rate is also the country-wide rate.

Based upon our analysis of the petition, the responses to our questionnaires, verification, and comments by interested parties, we determine the following:

I. Programs Determined To Be Countervailable

A. Benefits Provided Under Law 675/77

Law 675/77 was enacted to bring about restructuring and reconversion in the following industrial sectors: (1) electronic technology; (2) the manufacturing industry; (3) the agro-food industry; (4) the chemical industry; (5) the steel industry; (6) the pulp and paper industry; (7) the fashion sector; and (8) the automobile and aviation sectors. Law 675/77 also sought to promote optimal exploitation of energy resources, and ecological and environmental recovery.

A primary goal of this legislation was to bring all government industrial assistance programs under a single law in order to develop a system to replace indiscriminate and random public intervention by the GOI. Other goals were (1) to reorganize and develop the industrial sector as a whole; (2) to increase employment in the South; and (3) to maintain employment in depressed areas. Among other measures taken, the Interministerial Committee for the Coordination of Industrial Policy (''CIPI'') was created as a result of Law 675/77. CIPI approves individual projects in each of the industrial sectors listed above.

Six main programs were provided under Law 675/77: (1) interest contributions on bank loans; (2) mortgage loans provided by the Ministry of Industry at subsidized interest rates; (3) interest contributions on funds raised by bond issues; (4) capital grants for projects in the South; (5) personnel retraining grants; and (6) VAT reductions on purchases of capital goods by companies in the South. Dalmine reported that it received benefits under items (1), (2), and (5) above.

In its response, the GOI asserts that the steel and automobile industries did not receive a ''disproportionate'' share of benefits associated with interest contributions when the extent of investment in those industries is compared to the extent of investment in other industries. However, in keeping with past practice, we did not consider the level of investment in the individual industries receiving benefits under Law 675/77. Instead, we followed the analysis outlined in *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy (Grain-Oriented Electrical Steel),* 59 FR 18357 (April 18, 1994), and *Final Affirmative Countervailing Duty Determination: Certain Steel Products From Brazil,* 58 FR 37295, 37295 (July 9, 1993), of comparing the share of benefits received by the steel industry to the collective share of benefits provided to other users of the programs.

According to the information provided by the GOI, of the eight industrial sectors eligible for benefits under Law 675/77, the two dominant users of the interest contribution program were (1) the Italian auto industry which accounted for 34 percent of the benefits, and (2) the Italian steel industry which accounted for 33 percent of the benefits. Likewise, with respect to the mortgage loans, the two dominant users were the auto and steel industries which received 45 percent and 31 percent of the benefits, respectively.

In light of the above evidence, we determine that the steel industry was a dominant user of both the interest contribution and the mortgage loan programs under Law 675/77. (*See* section 355.43(b)(2)(iii) of the *Proposed Regulations*). Therefore, we determine that benefits received by Dalmine under these programs are being provided to a specific enterprise or industry or group of enterprises or industries. On this basis, we find Law 675/77 financing to be countervailable to the extent that it is granted on terms inconsistent with commercial considerations.

Under the interest contribution program, Italian commercial banks provided loans to industries designated under Law 675/77. The interest owed by the recipient companies was partially offset by interest contributions from the GOI. Dalmine received bank loans with interest contributions under Law 675/77 which were outstanding in the POI.

Because the GOI interest contributions were automatically available when the loans were taken out, we consider the contributions to constitute reductions in the interest rates charged, rather than grants (*see Certain Steel From Italy* at 37335).

At verification, we established that Dalmine had repaid each of the loans it received under this program in June 1994. We further found that Dalmine had not yet received a portion of the interest contributions originally owed to it by the GOI under this program, due to delays in GOI approval of several Dalmine internal asset transfers. Finally, we established that Dalmine had paid interest on each of the loans during the loan grace periods, contrary to what Dalmine reported in its questionnaire responses.

Dalmine argues that the GOI terminated the subsidized loan portion of this program in 1982, and that Dalmine repaid each of the loans in June 1994, after the POI, but before the publication of the preliminary determination. Consequently, Dalmine contends, no further benefits can accrue to Dalmine under this program. Therefore, according to Dalmine, the Department should, in accordance with the Department's policy to take program-wide changes into account in setting the duty deposit rate, set Dalmine's deposit rate for this program to zero.

Contrary to Dalmine's assertion, we determine that the termination of the subsidized loan portion of this program

does not constitute a program-wide change as defined in section 355.50(b)(1) of the *Proposed Regulations.* Specifically, although Dalmine has repaid the loans it received under the program, there could be other Italian companies with loans that are still outstanding. Therefore, despite termination of the program in 1982, there may still be residual benefits under the program. Under our program-wide change policy, the change at issue cannot be limited to individual firms. Consequently, we determine that the ''termination'' of the subsidized loan portion of this program does not constitute a program-wide change. *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders; Certain Welded Carbon Steel Pipe and Tube Products From Argentina (Argentine Pipe),* 53 FR 37619 (September 27, 1988); Section 355.50(b)(1) of the *Proposed Regulations.*

Alternatively, Dalmine claims that the Department should recalculate the benefits under this program to reflect the delayed receipt of GOI interest contributions, as well as Dalmine's payment of grace period interest.

With respect to the grace period, we have adjusted our calculations to reflect that Dalmine paid interest during that time, as established at verification. However, we are treating the interest contributions as countervailable on the date Dalmine made the corresponding interest payments, despite any delay in receipt by Dalmine. This is because Dalmine's entitlement to the interest contributions was automatic when it made the interest payments. Thus, we find, for purposes of benefit calculation, that the interest contributions were received at the time the interest payments were made. *See Steel Wire Nails from New Zealand,* 52 FR 37196 (1987).

Under the mortgage loan program, the GOI provides long-term loans at subsidized interest rates. Dalmine received financing under this program which was outstanding in the POI.

To determine whether these programs conferred a benefit, we compared the effective interest rate paid by Dalmine to the benchmark interest rate, discussed above. Based on this comparison, we determine that the financing provided under these programs is inconsistent with commercial considerations, *i.e.,* on terms more favorable than the benchmark financing.

To calculate the benefit from these programs, we used our standard long-term loan methodology as described in section 355.49(c)(1) of the *Proposed Regulations.* We then divided the benefit allocated to the POI for each program by Dalmine's total sales in 1993. On this basis, we determine the net subsidy from these programs to be 0.46 percent *ad valorem* for all manufacturers, producers, and exporters in Italy of the subject merchandise.

With respect to retraining grants provided to Dalmine under Law 675/77, it is the Department's practice to treat training benefits as recurring grants. (*See Certain Steel General Issues Appendix* at 37226). Since the only grant reported under this program was received by Dalmine in 1986, any benefit to Dalmine as a result of this grant cannot be attributed to the POI. Therefore, we determine that retraining benefits provided under Law 675/77 conferred no benefit to Dalmine during the POI.

B. Grants Under Law 193/84

According to the GOI, Articles 2, 3, and 4 of Law 193/84 provide for subsidies to close steel plants. As stated in Art. 20 of Law N. 46 of 17/2/1982, steel enterprises, including enterprises producing seamless pipes, welded pipes, conduits and welded pipes for water and gas, are the recipients of these subsidies. As benefits under this program are limited to the steel industry, we determine that Law 193/84 is de jure specific and, therefore, countervailable.

At verification, we found that Dalmine received an additional benefit under this program not reported in its questionnaire responses. We have included this additional benefit in our calculation of the benefits received by Dalmine under this program.

To calculate the benefit during the POI, we used our standard grant methodology (*see* section 355.49(b) of the *Proposed Regulations*). We then divided the benefits attributable to Dalmine under Law 193/84 in the POI by Dalmine's total sales. On this basis, we determine the estimated net subsidy to be 0.81 percent *ad valorem* for all manufacturers, producers, and exporters in Italy of the subject merchandise.

C. Exchange Rate Guarantee Program

This program, which was enacted by Law 796/76, provides exchange rate guarantees on foreign currency loans from the European Coal and Steel Community (''ECSC'') and *The Council of European Resettlement Fund (''CER'').* Under the program, repayment amounts are calculated by reference to the exchange rate in effect at the time the loan is agreed upon. The program sets a ceiling and a floor on repayment to limit the effect on the borrower of exchange rate changes over time. For example, if the lire depreciates five percent against the DM (the currency in which the loan is taken out), borrowers would normally find that they would have to repay five percent more (in lire terms). However, under the Exchange Rate Guarantee Program, the ceiling would act to limit the increased repayment amount to two percent. There is also a floor in the program which would apply if the lire appreciated against the DM. The floor would limit any windfall to the borrower.

In *Grain-Oriented Electrical Steel,* the Department found this program to be not countervailable because of incomplete information regarding the specificity of the program. The Department stated that, because the determination was reached while lacking certain important information, the finding of non-countervailability would not carry over to future investigations.

In this investigation, information provided by the GOI shows that the steel industry received 25% of the benefits under the program. Furthermore, at verification, we found that in the years Dalmine took out loans on which it received exchange rate guarantees under this program, the steel industry received virtually all the benefits under the program. Based on this information, the Department determines that the steel industry was a dominant user of exchange rate guarantees under Law 796/76 and, thus, that benefits received by Dalmine under this law are being provided to a specific enterprise or industry or group of enterprises or industries. (*See* section 355.43(b)(2)(iii) of the *Proposed Regulations*). Therefore, we determine that the exchange rate guarantees offered under the program are countervailable to the extent they are provided on terms inconsistent with commercial considerations.

Dalmine provided information that it could have purchased an exchange rate guarantee from commercial sources. However, Dalmine's information pertained to 1993, not to the period when the government guarantees were provided. The GOI's response indicates that commercial exchange rate guarantees were not available in 1986, the year in which the loans and the guarantees were received. Therefore, we determine the benefit to be the total amount of payments to Dalmine made during the POI by the GOI. (Because the amount the government will pay in any given year will not be known until that year, benefits can only be calculated on a year-by-year basis.) We divided the GOI's payments in 1993 by Dalmine's

1993 total sales. On this basis, we determine the estimated net subsidy from this program to be 0.20 percent ad valorem for all manufacturers, producers, and exporters in Italy of the subject merchandise.

II. Programs Determined To Be Not Countervailable

A. 1988/89 Equity Infusion

In November 1989, Dalmine completed an equity rights offering which allowed existing shareholders to purchase 7 new shares for every 10 shares they already owned. The new shares were offered at a price of LIT 300 per share. At that time, ILVA owned 81.7 percent of Dalmine's equity, with the remaining 18.3 percent owned by private investors. Pursuant to the rights offering, ILVA subscribed to its full allotment of the new shares issued. The remainder of the new shares were purchased by private shareholders. All shares were purchased at LIT 300 per share.

Petitioner argues that, although Dalmine's shares were nominally publicly traded, the vast majority of Dalmine shares were indirectly owned by the GOI and, therefore, shares were not purchased in adequate volume by private investors to establish a valid benchmark. Specifically, petitioner contends that, in 1991, ILVA owned 99.9 percent of Dalmine and, therefore, Dalmine's shares were in fact not publicly traded. Consequently, because essentially no private purchases were being made, the market price at the time of the equity infusion cannot serve as a valid benchmark. Furthermore, petitioner asserts that it is highly likely that the remaining shares not purchased by ILVA were purchased indirectly by the GOI through other holding companies.

In response to our questionnaire, Dalmine provided a list of all purchasers of shares in the 1989 offering. There was no evidence to indicate that the shares not purchased by ILVA were purchased by other government controlled or owned entities, as petitioner suggests.

Moreover, the extent of ILVA's ownership in 1991 is not relevant to the choice of a benchmark for the equity investment in 1989.

Therefore, in our preliminarily determination, we determined that, because 18.3 percent of the equity infusion was purchased by private shareholders, the sale of these shares provides the market-determined price for Dalmine's equity. Furthermore, in accordance with section 355.44 (e)(1) of the Department's *Proposed Regulations*, we preliminarily determined that the equity infusion is not countervailable because the market-determined price for equity purchased from Dalmine is not less than the price paid by ILVA for the same form of equity. We did not learn anything at verification that would lead us to reconsider our preliminary determination. Therefore, we continue to find that the equity infusion is not countervailable.

B. European Social Fund (''ESF'') Grants

The ESF was established by the 1957 European Economic Community Treaty to increase employment and help raise worker living standards.

As described in *Grain-Oriented Electrical Steel*, the ESF receives its funds from the EC's general budget of which the main revenue sources are customs duties, agricultural levies, value-added taxes collected by the member states, and other member state contributions.

The member states are responsible for selecting the projects to be funded by the EC. The EC then disburses the grants to the member states which manage the funds and implement the projects. According to the EC, ESF grants are available to (1) people over 25 who have been unemployed for more than 12 months; (2) people under 25 who have reached the minimum school-leaving age and who are seeking a job; and (3) certain workers in rural areas and regions characterized by industrial decline or lagging development.

The GOI has stated that the ESF grants received by Italy have been used for vocational training. Certain regions in the South are also eligible for private sector re-entry and retraining schemes. Since 1990, the vocational training grants have been available to unemployed youths and long-term unemployed adults all over Italy, according to the GOI. Before 1990, however, the GOI gave preference to certain regions in Italy.

In *Grain-Oriented Electrical Steel*, we determined that this program was not regionally specific and not otherwise limited to a specific enterprise or industry, or group of enterprises or industries. Furthermore, we noted that to the extent there is a regional preference (*i.e.*, southern Italy) in the distribution of ESF benefits, it has not resulted in a countervailable benefit to the production of the subject merchandise, which is produced in northern Italy.

Information provided by the GOI in this investigation is consistent with the information provided in *Grain-Oriented Electrical Steel.* Therefore, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and therefore, is not countervailable.

C. ECSC Article 54 Loans

Under Article 54 of the 1951 ECSC Treaty, the European Commission provides loans directly to iron and steel companies for modernization and the purchase of new equipment. The loans finance up to 50 percent of an investment project. The remaining financing needs must be met from other sources. The Article 54 loan program is financed by loans taken by the Commission, which are then re-lent to iron and steel companies in the member states at a slightly higher interest rate than that at which the Commission obtained them.

Consistent with the Department's finding in *Grain-Oriented Electrical Steel,* we determine that this program is limited to the iron and steel industry. As a result, loans under this program are specific.

Of the Article 54 loans Dalmine had outstanding during the POI, some were denominated in U.S. dollars and others were in Dutch guilders (''NLG''). To determine whether the loans were provided on terms inconsistent with commercial considerations, we used the benchmark interest rates for the currencies in which the loans were denominated. That is, for the U.S. dollar loans we used the average interest rate on long-term fixed-rate U.S. dollar loans obtained in the United States, as reported by the Federal Reserve. For the NLG denominated loan, we used the average long-term bond rate for private borrowers in the Netherlands, as reported by the Organization for Economic Cooperation and Development (''OECD'').

Because the interest rates paid on Dalmine's Article 54 loans are higher than the benchmark interest rates, the Department determines that loans provided under this program are not inconsistent with commercial considerations and, therefore, not countervailable.

D. 1989 Provisional Payment in Connection With 1989 Equity Infusion

In March 1989, ILVA made a payment to Dalmine in anticipation of purchasing new shares in Dalmine. The payment was provisional in nature because EC authorization of the capital increase was necessary and, if authorization was not granted, the money would have been repaid to ILVA. The capital increase was not finalized until November 1989, due to delays in EC approval. At that time, the payment became equity capital.

Consistent with the Department's position in *Grain-Oriented Electrical Steel,* we determine that the funds provided by ILVA to Dalmine are countervailable.

During the period March-November 1989, Dalmine had use of the money and paid no interest on it. Therefore, we have treated the funds provided by ILVA to Dalmine as an interest-free short-term loan from March 1989 to November 1989.

Because any benefit from this interest-free loan would be allocable entirely to 1989, no benefit is attributable to the POI.

III. Programs Determined To Be Not Used

We established at verification that the following programs were not used during the POI.

1. Preferential IMI Export Financing Under Law 227/77
2. Preferential Insurance Under Law 227/77
3. Retraining Grants under Law 181/89
4. Benefits under ECSC Article 56

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of seamless pipe from Italy, which were entered or withdrawn from warehouse for consumption, on or after November 28, 1994, the date our preliminary determination was published in the **Federal Register**. This final countervailing duty determination was aligned with the final antidumping duty determination of seamless pipe from Italy, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the GATT subsidies Code, provisional measures cannot be imposed for more than 120 days without a final affirmative determination of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after March 28, 1995, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise between November 28, 1994, and March 27, 1995. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated below.

Seamless Pipe

Country-Wide *Ad Valorem* Rate 1.47 percent.

ITC Notification

In accordance with section 705(c) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue a countervailing duty order.

Return of Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14934 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Correction for Notice of Application.

''In the Notice of Application for a Certificate of Review for United Products of America, Inc., Application No. 95–00004, which was printed in the **Federal Register** on June 7, 1995, page 30064, No. 109, Vol 60, the - Date Deemed Submitted was incorrectly listed as April 30, 1995. In fact, Application No. 95–00004 was deemed submitted on May 30, 1995, not April 30.''

Dated: June 30, 1995.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 95–14892 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–25–P

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on June 27, 1995 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration,

with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: June 13, 1995.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 95–14893 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 060895B]

New England Recovery Plan Implementation Team Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Recovery Plan Implementation Team (Team) for the Northern Right Whale and Humpback Whale Recovery Plans will hold a 1-day public meeting to consider whale recovery plan implementation actions, particularly for the northern right whale.

DATES: The meeting will begin on Thursday, July 13, 1995, at 9:15 a.m.

ADDRESSES: The Team meeting will be held at the Stellwagen Bank National Marine Sanctuary Office, 14 Union Street, Plymouth, MA 02360; telephone (508) 747–1691.

FOR FURTHER INFORMATION CONTACT: Douglas Beach, (508) 281–9254.

SUPPLEMENTARY INFORMATION: The Team is made up primarily of representatives from state and Federal agencies from New England that are identified in each of the recovery plans as having a role in recovery of these two species. The July 13, 1995, Team meeting will focus primarily on the northern right whale and include a discussion on vessel interaction and gear conflicts with whales, whale watching issues and critical habitat locations along the New England coast.

Dated: June 12, 1995.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–14831 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 060995A]

Endangered Species; Permits

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

ACTION: Issuance of permit 962 and modification 3 to permit 802.

SUMMARY: Notice is hereby given that NMFS issued Permit 962 to Carlos Diez and Robert van Dam (P509B), and Modification 3 of Permit 802 to Dr. André Landry (P512), to take listed sea turtles for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications, permits, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southeast Region, NMFS, NOAA 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

SUPPLEMENTARY INFORMATION: Notice was published on April 14, 1995 (60 FR 19025) that an application had been filed by Carlos Diez of the University of Central Florida and Robert van Dam of Scripps Institute of Oceanography (P509B), to take listed hawksbill sea turtles (*Eretmochelys imbricata*) and listed green sea turtles (*Chelonia mydas*) for habitat and population studies as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222). The applicants propose to capture by hand 200 listed hawksbill and 20 listed green sea turtles in the waters off of Mona and Monito islands, Puerto Rico (18°05′ N, 67°54′ W), to be examined, photographed, measured, tagged, and released. Some of these turtles may be lavaged, have blood samples taken, or have time depth recorders attached. On May 31, 1995, as authorized by the ESA, NMFS issued Permit 962 for the above research.

On June 9, 1995, NMFS issued Modification 3 to Permit 802 to Dr. André Landry of Texas A&M University (P512) to allow netting of sea turtles in up to 12 ft (3.7 m) of water in the Gulf of Mexico.

Issuance of this permit and modification, as required by the ESA, was based on a finding that such permit and modification: (1) Were applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of this permit and modification; (3) are consistent with the purposes and policies set forth in section 2 of the ESA. This permit and modification were also issued in accordance with and are subject to 50 CFR parts 217–222, NMFS regulations governing listed species permits.

Dated: June 12, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–14830 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF EDUCATION

[CFDA No.: 84.316]

Native Hawaiian Higher Education Program

Notice inviting applications for new awards for fiscal year (FY) 1995.

Purpose of Program: To provide direct grants for a program of baccalaureate and postbaccalaureate fellowship assistance to Native Hawaiian students. Program activities may include—(a) full or partial fellowship support for Native Hawaiian students enrolled at two-or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and (b) full or partial fellowship support for Native Hawaiian students enrolled at postbaccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need; (c) counseling and support services for students receiving fellowship assistance under this program; (d) college preparation and guidance counseling at secondary school level for students who may be eligible for fellowship support under this program; (e) appropriate research and evaluation of the activities authorized under this program; and (f) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

This program supports the National Education Goals that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship; and that the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

SUPPLEMENTARY INFORMATION: This program is authorized by section 9206 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by section 101 of the Improving America's Schools Act of 1994, Pub. L. 103–382, enacted October 20, 1994, to be codified at 20 U.S.C. 7906.

Eligible Applicants: Native Hawaiian private nonprofit educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language are eligible, as defined in section 9212 of the ESEA.

Deadline for Transmittal of Applications: July 28, 1995.

Deadline for Intergovernmental Review: August 14,1995.

Applications Available: June 19, 1995.

Available Funds: From $1,000,000 to $1,400,000.

Estimated Range of Awards: Up to $1,400,000.

Estimated Average Size of Awards: $467,000.

Estimated Number of Awards: 2–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: This program is governed by sections 9206 and 9212 of the ESEA and the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in EDGAR, 34 CFR 75.210.

These regulations provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of Operation (34 CFR 75.210(b)(3)). Ten points are added to this criterion for a possible total of 25 points.

Quality of Key Personnel (34 CFR 75.210(b)(4)). Three points are added to this criterion for a possible total of 10 points.

Adequacy of Resources (34 CFR 75.210(b)(7)). Two points are added to this criterion for a possible total of 5 points.

FOR APPLICATIONS OR INFORMATION CONTACT: Karen W. Johnson, U.S. Department of Education, 600 Independence Avenue, S.W., (Portals, Suite C–80) Washington, D.C. 20202–5329. The Department encourages you to FAX requests for this application to (202) 260–7615. 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.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7905 SEC. 9206.

Dated: June 5, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–14917 Filed 6–16–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Grant solicitation awards for laser fusion research applications.

SUMMARY: Pursuant to 10 CFR 600.15, the U.S. DOE announces that it plans to conduct a technically competitive solicitation for basic research experiments in high energy density and laser matter interaction studies at the National Laser Users' Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE). Grant Solicitation No. DE–PS03–96SF20761. Universities or other higher education institutions, private sector not-for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the Fiscal Year 1996 (FY96) program cycle is $700,000. Multiple awards are anticipated.

FOR FURTHER INFORMATION CONTACT: James H. Solomon, Contracting Officer, DOE Oakland Operations Office, 1301 Clay Street, Room 700N, Oakland, CA 94612–5208, (510) 637–1865.

SUPPLEMENTARY INFORMATION: Interested parties can obtain a 3½'' computer floppy disk of the solicitation document by submitting a written request; specify WordPerfect 5.0 for DOS Microsoft Word 5.0 for Macintosh. The solicitation document contains all the information relative to this action for prospective applicants. The solicitation is targeted for release in June 1995.

The actual work to be accomplished will be determined by the experiments and diagnostic techniques that are selected for award. Proposed experiments and diagnostic techniques will be evaluated through scientific peer review against predetermined, published and available criteria. Final selection will be made by the DOE. It is anticipated that multiple grant will be awarded within available funding. The Unique resources of the NLUF are available to scientists for state-of-the-art experiments primarily in the area of interial confinement fusion (ICF) and related plasma physics. Other areas such as spectroscopy of highly ionized atoms, laboratory astrophysics, fundamental physics, materials science, and biology and chemistry will be considered on a secondary basis.

The LLE was established in 1970 to investigate the interaction of high power lasers with matter. Available at the LLE for NLUF researchers is the upgraded OMEGA LASER, a 30 kJ UV 60 beam laser system (at 0.35 um) suitable for direct-drive ICF implosions, and the Glass Development Laser (GDL), a 1 trillion watt, single beam prototype for the OMEGA (at 0.35um). The systems are suitable for a variety of experiments including laser-plasma interactions and atomic spectroscopy. The NLUF program for FY96 is to concentrate on experiments that can be done with the OMEGA laser at the University of Rochester and development of diagnostic techniques suitable for the OMEGA system. Measurements of the laser coupling, laser-plasma interactions, core temperature, and core density are needed to determine the characteristics of the target implosions. Diagnostic techniques could include either new instrumentation, development of analysis tools, or development of targets that are applicable for 30 kJ implosions.

Additional information about the facilities and potential collaboration at the NLUF can be obtained from: Dr. James Knauer, Manager, National Laser User's Facility, University of Rochester/ LLE, 250 East River Road, Rochester, NY 14623.

Issued in Oakland, CA May 23, 1995.

Joan Macrusky,

Chief, Financial Assistance Branch, Program Acquisition and Assistance Division.

[FR Doc. 95–14914 Filed 6–16–95; 8:45 am]

BILLING CODE 6450–1–M

Federal Energy Regulatory Commission

Cultural Resources Industry Outreach Training Course

June 13, 1995.

The Office of Pipeline Regulation (OPR) staff will convene another session of its cultural resources compliance training course on September 14, 1995. We are holding this course so that additional members of the regulated pipeline industry and interested individuals and organizations can gain an understanding of:

- how the Commission gives the industry and the public an opportunity to assist the Commission in meeting its responsibilities under the National Historic Preservation Act (NHPA) and other historic preservation laws and regulations; and
- what cultural resources information the industry needs to file with the Commission before and after the Commission issues a certificate.

We encourage interested organizations and the public to take advantage of this course.

The course will include the following topics:

- Objectives and requirements of the Commission regarding compliance with § 106 of the NHPA and related historic preservation laws;
- Guidance for reporting on cultural resources investigations;
- Definition of cultural resources terms used by the Commission in the compliance process; and
- Efficient strategies for planning and conducting cultural resources investigations.

The one-day training course will be held at the Embassy Suites Denver Southeast, 7525 East Hampden Avenue, Denver, Colorado 80231. For hotel reservations, call (303) 696–6644 by August 31, 1995 and identify yourself as a cultural resources seminar attendee.

The OPR staff and Foster Wheeler Environmental Corporation, the Commission's environmental support contractor, will conduct the training. There is no fee for the course, but you must pre-register.

Additional outreach training may be offered later this year and in 1996 based on the level of interest. If you would like to attend the September 14, 1995 session, or indicate your preference for other courses and locations, please call the telephone number listed below to obtain a pre-registration form.[1] Because space is limited, please mail or fax the registration form within 15 days of publication of this notice to: Ms. Donna Connor, Foster Wheeler Environmental Corporation, 470 Atlantic Avenue, Boston, MA 02210, Telephone: (617) 542–8805, FAX: (617) 695–1587.

You will receive confirmation of pre-registration and additional information before the Commission's training course.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14860 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG95–56–000, et al.]

North America Energy Services Company, et al. Electric Rate and Corporate Regulation Filings

June 12, 1995.

Take notice that the following filings have been made with the Commission:

1. North American Energy Services

[Docket No. EG95–56–000]

On June 7, 1995, North American Energy Services Company, a Washington corporation (''Applicant''), with its principal executive office at Issaquah, Washington, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations (the ''Application'').

Applicant has entered into an operation and maintenance subcontract with Cortes Operating Company, S.A. de C.V., a company organized under the laws of Honduras, to operate and maintain an 80-megawatt fuel oil-fired, electric generating plant located near Puerto Cortes, Honduras (the ''Project''). Project facilities also include a heavy fuel line, fuel storage tanks and a 138-kV transmission line that is owned by Empresa Nacional De Energia Electrica, a Honduran utility. The Project commenced generating electric power during May 1994.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Midwest Power Systems Inc.

[Docket No. EL95–51–000]

Take notice that on June 1, 1995, Midwest Power, a division of Midwest Power Systems Inc. (Midwest Power), filed a Petition for Declaratory Order pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure. Midwest requests the Commission to rule on the constitutionality of Iowa Code §§ 476.41-.45.

Comment date: July 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Texican Energy Ventures, Inc.

[Docket No. ER94–1362–001]

Take notice that on June 1, 1995, Texican Energy Ventures, Inc. (Texican) filed certain information as required by the Commission's July 25, 1994, order in Docket No. ER94–1362–000. Copies of Texican's informational filing are on file with the Commission and are available for public inspection.

4. CLP Hartford Sales, L.L.C

[Docket No. ER95–393–002]

Take notice that on May 24, 1995, CLP Hartford Sales, L.L.C. (CLP Hartford) filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–393–002. Copies of CLP Hartford's informational filing are on file with the Commission and are available for public inspection.

5. Potomac Electric Power Company

[Docket No. ER95–543–000]

Take notice that on May 3, 1995, Potomac Electric Power Company submitted a further revised explanation of Pepco's treatment of the cost of emission allowances in its coordination rates in compliance with Order No. 579.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Vermont Electric Power Company, Inc.

[Docket No. ER95–741–000]

Take notice that Vermont Electric Power Company, Inc. on June 8, 1995, tendered for filing an amendment in the above-referenced docket.

[1] The registration form referenced in this notice is not being printed in the *Federal Register.* Copies of the form were sent to those receiving this notice in the mail.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Boston Edison Company

[Docket Nos. ER95–773–000, ER95–774–000 and ER95–775–000]

Take notice that on June 7, 1995 Boston Edison Company tendered for filing a corrected version of Revised Original Page No. of Schedule II of FERC Electric Tariff, Original Volume No. 6, Power Sales and Exchange Tariff.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Commpany

[Docket No. ER95–842–000]

Take notice that on May 24, 1995 Northern Indiana Public Service Company (Northern) tendered for filing an Addendum to the Interchange Agreement Between Northern Indiana Public Service Company and Rainbow Energy Marketing Corporation.

The Addendum specifies the treatment of emissions allowance costs included as out-of-pocket costs for sales by Northern.

Copies of this filing have been sent to Rainbow Energy Marketing Corporation and the Indiana Utility Regulatory Commission.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. CNB/Olympic Gas Services

[Docket No. ER95–964–000]

Take notice that on June 2, 1995, CNB/Olympic Gas Services tendered for filing additional information to its April 27, 1995 filing in the above-referenced docket.

Comment date: June 23, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER95–1120–000]

Take notice that on May 30, 1995, Florida Power & Light Company (FPL) tendered for filing proposed Service Agreements with the City of St. Cloud for transmission service under FPL's Transmission Tariff Nos. 2 and 3.

FPL requests that the proposed Service Agreements be permitted to become effective on June 1, 1995, or as soon thereafter as practicable.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER95–1139–000]

Take notice that on May 31, 1995, Carolina Power & Light Company, tendered for filing an application for approval of the rate of return on equity to be effective under the Power Coordination Agreement between Carolina Power & Light Company and North Carolina Electric Membership Corporation.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Northern Indiana Public Service Company

[Docket No. ER95–1140–000]

Take notice that on May 31, 1995, Northern Indiana Public Service Company, tendered for filing an Interchange Agreement between Northern Indiana Public Service Company and Stand Energy Corporation.

The Interchange Agreement allows for General Purpose transactions and Negotiated Capacity transactions. General Purpose transactions are economy based energy transactions which may be made available from the supplying party's resources from time to time. Negotiated Capacity transactions provide capacity and energy to the buyer, customized to the specific needs at the time of the reservation.

Copies of this filing have been sent to Stand Energy Corporation and to the Indiana Utility Regulatory Commission.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Central Power and Light Company

[Docket No. ER95–1141–000]

Take notice that on May 31, 1995, Central Power and Light Company (CPL), submitted for filing an unexecuted Transmission Service Agreement, dated May 31, 1995, between CPL and Rio Grande Electric Cooperative, Inc. (Rio Grande). Under the TSA, CPL will provide wheeling service to Rio Grande which will permit Rio Grande to substitute West Texas Utilities Company as the full-requirements supplier for Rio Grande load currently served by CPL.

CPL requests an effective date of June 1, 1995 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Rio Grande and the Public Utility Commission of Texas.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. The Washington Water Power Company

[Docket No. ER95–1142–000]

Take notice that on May 31, 1995, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a Notice of Cancellation concerning Rate Schedule FERC No. 185. Effective July 31, 1995 the capacity and energy sales agreement between WWP and the Public Utility District No. 1 of Pen Oreille County (Pend Oreille) is canceled.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Western Resources, Inc.

[Docket No. ER95–1150–000]

Take notice that on June 1, 1995, Western Resources, Inc. (Western Resources), tendered for filing a change in Service Agreement No. 2 under its FERC Electric Tariff, Original Volume No. 1. Western Resources states that the change is to amend Exhibit A to the Transmission Service Agreement between Western Resources and the City of Fredonia, Kansas to reflect increase contract capacity.

Copies of this filing were served upon the City of Fredonia and the Kansas Corporation Commission.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Public Service Company

[Docket No. ER95–1151–000]

Take notice that on June 1, 1995, Central Illinois Public Service Company (CIPS), submitted service agreements establishing ten new customers under CIPS' Rate Schedule for Sales of Next Hour Interruptible Energy, Next-Hour Non-Interruptible Energy and Next Hour Firm Wheeling Service (Rate Schedule HSW).

CIPS requests an effective date of May 15, 1995 for the ten service agreements, and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon the ten customers and the Illinois Commerce Commission.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power Corporation

[Docket No. ER95–1152–000]

Take notice that on June 1, 1995, Florida Power Corporation, tendered for filing an amendment to its interchange contract with Alabama Electric Cooperative, Inc., pursuant to which the

parties have agreed to the interchange of Backup Interchange Service and Opportunity Sales Interchange Service. Florida Power requests that the amendment become effective on August 1, 1995.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Kentucky Utilities Company

[Docket No. ER95–1153–000]

Take notice that on June 1, 1995, Kentucky Utilities Company filed Letter Agreements providing for power sales between itself and Louis Dreyfus Electric Power Inc. and Electric Clearinghouse, Inc. KU requests waiver and an effective date of June 1, 1995.

Comment date: June 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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. 95–14858 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–502–000, et al.]

Columbia Gas Transmission Corp., et al.; Natural Gas Pipeline Filings; Correction

June 13, 1995.

On June 8, 1995, the above-captioned notice was published in the Federal Register (60 FR 30296). The comment date on the following two items at 60 FR 30298 should have read as follows:

9. Williams Natural Gas Company

Docket No. CP95–525–000.

Comment date: July 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

10. Columbia Gas Transmission Corporation

Docket No. CP95–527–000.

Comment date: June 22, 1995, in accordance with Standard Paragraph F at the end of this notice.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14895 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–182–000]

ANR Pipeline Company; Notice of Technical Conference

June 13, 1995.

In the Commission's order issued on March 31, 1995, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Thursday, July 27, 1995, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14862 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–337–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 13, 1995.

Take notice that on June 8, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing, to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of July 1, 1995, in compliance with Order No. 577–A.

Second Revised Sheet No. 191A
Third Revised Sheet No. 192
Third Revised Sheet No. 194
Second Revised Sheet No. 388
Second Revised Sheet No. 395

In Order No. 577–A, the Commission modified its capacity release regulations to permit shippers to release firm capacity for a period of 31 days or less without having to comply with advance posting and bidding requirements.

Columbia Gulf states that the above-referenced tariff sheets are being filed to revise the capacity release and assignment provisions and forms in its tariff to reflect the change mandated by Order No. 577–A.

Columbia Gulf states that copies of its filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 20, 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. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14863 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–338–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 13, 1995.

Take notice that on June 8, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets in compliance with Order No. 577–A, with a proposed effective date of July 1, 1995.

Second Revised Sheet No. 351
Second Revised Sheet No. 352
Second Revised Sheet No. 353
Second Revised Sheet No. 354
Second Revised Sheet No. 575
Second Revised Sheet No. 585

In Order No. 577–A, the Commission modified its capacity release regulations to permit shippers to release firm capacity for a period of 31 days or less without having to comply with advance posting and bidding requirements.

Columbia states that the above-referenced tariff sheets are being filed to revise the capacity release and assignment provisions and forms in its tariff to reflect the change mandated by Order No. 577–A.

Columbia states that copies of its filing have been mailed to all firm customers and affected state of regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 20, 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. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14864 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–52–000]

Granite State Gas Transmission, Inc.; Notice of Site Visit and Technical Conferences

June 13, 1995.

On June 27, 1995, the staff will conduct a second visit to the proposed LNG site in the above docket. Those planning to attend must provide their own transportation.

On June 28, 1995, the staff will conduct two concurrent Technical Conferences in Wells, Maine on the LNG project proposed in the above docket.

The first Technical Conference will be on the Seismic design of the LNG plant and will be held in the Wells Town Hall/Annex at 9 a.m.

The second Technical Conference will be to examine the issues raised by intervenors, protestants, and staff including, but not limited to, the need for the LNG facility, system alternatives, alternative sites, and engineering matters. The second Technical Conference will be held at Wells Town Hall at 9 a.m. An official transcript will be kept.

For both Technical Conferences, the discussion will initially be limited to FERC staff and the members of applicant's staff who have expertise in the given topics. Other attendees will be given the opportunity to ask questions on the above issues after the initial discussion have concluded.

For further information on the site visit or the first Technical Conference call Robert Arvedlund, Chief, Environmental Review and Compliance Branch I, at (202) 208–0091. For further information the second Technical Conference, call Berne Mosley, staff engineer, Special Cases Review Branch, at (202) 208–2256.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14861 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–557–000]

Texas Eastern Transmission Corp., Application

June 13, 1995.

Take notice that on June 12, 1995, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP95–557–000 pursuant to Sections 7(b) and Section 7(c) of the Natural Gas Act requesting permission and approval to abandon, by removal, certain corroded pipeline segments and for a certificate of public convenience and necessity authorizing it to construct, install and operate replacement facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern requests authorization to replace and operate a total of 1.74 miles of 30-inch pipeline on its Line No. 16 in Refugio and Aransas Counties, Texas. Texas Eastern also requests permission and approval to abandon, by removal, a total of 1.74 miles of existing 30-inch Line No. 16 pipeline. The pipeline will be replaced in three discrete sections: from Milepost (MP) 170.52 to M.P. 171.46, from M.P. 175.03 to M.P. 175.35, and from M.P. 179.34 to 179.82.

Texas Eastern states that a routine in-line tool inspection of Line No. 16 performed in 1994 revealed areas of corrosion in the pipeline, necessitating replacement of the three identified segments. Texas Eastern states that the affected pipeline segments were constructed in 1956 as authorized in Docket No. G–9784 (16 FPC 27). Texas Eastern notes that Line No. 16 is part of one of Texas Eastern's principal transmission lines from its access area to its market areas. It is asserted that if the corroded pipeline were to be taken out of service and not replaced, Texas Eastern would not be able to meet its certified service levels.

Texas Eastern maintains that proposed replacements are required to maintain the integrity, safety, and reliability of its system. It is indicated that the pipeline segments will be replaced with the same 30-inch diameter pipeline as the existing pipeline. Consequently, the project will have no impact on Texas Eastern's design delivery capacity of maximum daily design system capacity. Texas Eastern estimates that the proposed facilities will cost $1,820,000, which will be financed, initially, with corporate funds on hand. Permanent financing will be undertaken at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 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 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 permission and approval for the proposed abandonment is 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 Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–14859 Filed 6–16–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the proposed procedures for disbursement of $34,551,984 (plus additional accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Dorchester Master Limited Partnership (Case No. VEF–0005), Howell Corporation (Case No. VEF–0006), Placid Oil Company (Case No. VEF–0008), Eton Trading Corporation (Case No. VEF–0009) and Rodgers Hydrocarbon Corporation (Case No. VEF–0010). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication in the **Federal Register**, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Nos. VEF–0005 *et al.*

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $34,551,984, plus additional accrued interest, remitted to the DOE by Dorchester Master Limited Partnership, Howell Corporation, Placid Oil Company, Eton Trading Corporation and Rodgers Hydrocarbon Corporation. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA proposes to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

The final deadline for the crude oil proceeding is June 30, 1995. As we state in the Proposed Decision, any party who has previously submitted a refund application in the crude oil refund proceeding should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the proceedings are finalized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received by the OHA will be available for public inspection between the hours of 1 p.m. to 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: June 12, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 12, 1995.

Proposed Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Names of Firms:
Dorchester Master Limited Partnership
Howell Corporation
Placid Oil Company
Eton Trading Corporation
Rodgers Hydrocarbon Corporation

Dates of Filing:
February 27, 1995
February 27, 1995
February 28, 1995
March 8, 1995
March 8, 1995

Case Numbers:
VEF–0005
VEF–0006
VEF–0008
VEF–0009
VEF–0010

In accordance with the procedural regulations of the Department of Energy (DOE), 10 C.F.R. part 205, Subpart V, the Office of General Counsel, Regulatory Litigation (''OGC'') (formerly the Economic Regulatory Administration (ERA), Office of Enforcement Litigation), filed five Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on February 27, 1995, February 28, 1995, and March 8, 1995. The Petitions request that OHA formulate and implement procedures to distribute funds received by the DOE from Dorchester Master Limited Partnership (DMLP), Howell Corporation (Howell), Placid Oil Company (Placid), Eton Trading Corporation (Eton) and Rodgers Hydrocarbon Corporation, pursuant to DOE enforcement proceedings involving allegations of crude oil pricing and allocation violations by the firms. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds, which are being held in an interest-bearing escrow account maintained at the Department of the Treasury.

I. Background

A. Dorchester Master Limited Partnership

During the period of petroleum price controls, the firms which now comprise DML[1] were engaged in crude oil refining and reselling. The firms were therefore subject to regulations governing the pricing and allocation of crude oil set forth at 10 C.F.R. Parts 211 and 212 of the Mandatory Petroleum Price and Allocation Regulations. In an audit which covered the period from November 1, 1974 through August 1979 the ERA identified instances in which it believed that Dorchester's refinery subsidiary and reseller division engaged in the improper switching of crude oil certifications in violation of 10 C.F.R. §§ 211.67 (the Crude Oil Entitlements Program) and 212.131(b). As a result of the ERA audit, a Proposed Remedial Order (PRO) was issued to Dorchester on March 19, 1982 (Case No. 6A0X00278). The OHA affirmed the findings of the PRO and issued a Remedial Order (RO) to Dorchester on March 11, 1985. *Dorchester Gas Corp.*, 12 DOE ¶ 83,034 (1985), appeal docketed, No. R085–12–000 (FERC April 22, 1985). As a result of another ERA audit, on March 9, 1983, a PRO

[1] DMLP, a limited partnership formed in 1984, is the successor to Dorchester Gas Corporation (Dorchester) and includes Damson Oil Corporation (Damson), the general partner of DMLP, and Doram Energy, Inc. (Doram), a subsidiary of Damson. Therefore, DMLP will be used to refer collectively to Dorchester, Damson, and Doram, and their subsidiaries and affiliates. We will refer to the individual firms in some instances, since the audits originated with those firms during the period of price controls.

was issued to Doram and Damson, the other firms now comprising DMLP, alleging that during the period March 1980 through December 1980, they received illegal revenue by reselling crude oil at prices in excess of those permitted by applicable crude oil reseller price allocation regulations. An RO was issued to those two firms on March 12, 1987. *Doram Energy, Inc.*, 15 DOE ¶ 83,024 (1987), *modified*, 16 DOE ¶ 83,006 (1987), appeal docketed, No. R087–16–000 (FERC April 6, 1987).

On April 4, 1988, a Consent Order was executed between DMLP and the DOE which resolved a number of outstanding issues involving DMLP. Under the terms of the settlement, DMLP would pay the DOE a maximum of $65 million but no less than $11 million, plus installment interest, by July 1, 1997. The Consent Order states that the DOE has made no formal findings of violation by DMLP and that DMLP does not admit it has committed any regulatory violations. As of March 31, 1995, DMLP had paid the DOE the sum of $11,193,730,[2] and it is current in its payments to DOE. Although we anticipate that additional revenues will be collected from DMLP, no good reason exists to forestall implementing procedures for distributing the current balance of the fund, which, with accrued interest, totals $13,165,527.

B. Howell Corporation

During the price control period, Howell was a crude oil producer, refiner, and reseller. Howell was therefore subject to the Federal petroleum price and allocation regulations. In 1981, the ERA audited Howell's compliance with the crude oil Entitlements Program during the period January 1, 1978 through January 27, 1981. As a result of that audit, on June 24, 1988, a PRO was issued to the firm, alleging violations of the crude oil price and allocation regulations.[3] On February 23, 1989, the DOE and Howell executed a Consent Order resolving the issues addressed in the PRO. Pursuant to the Consent Order, Howell agreed to pay the DOE $19,375,000 plus interest, with installment payments over seven years. As of March 31, 1995, Howell had paid the DOE $15,288,098, and it is current in its payments to the DOE. Although we anticipate that additional revenues will be collected from Howell, no good reason exists to forestall implementing procedures for distributing the current balance of the fund, which, with accrued interest, totals $18,527,540.43.

C. Placid Oil Company

Placid was a producer of crude oil during the period of price controls. On March 30, 1981, the ERA issued a PRO in which it alleged that during the period from September 1973 through May 1977, Placid overcharged its customers in sales of crude oil from several properties it operated. In addition, the PRO also alleged that Placid improperly calculated the average daily production for a number of properties and as a result erroneously certified crude oil production from these properties as exempt from price controls pursuant to the stripper well exemption. On February 11, 1985, the OHA issued an RO to Placid, affirming the ERA allegations concerning Placid's overcharges. *Placid Oil Co.*, 12 DOE ¶ 83,030, *modified*, 13 DOE ¶ 83,007 (1985). Placid appealed the RO to the Federal Energy Regulatory Commission (FERC). On February 26, 1987, the FERC reversed and vacated the RO (*Placid Oil Co.*, 38 FERC ¶ 61,199); however, on July 23, 1987, the FERC reversed itself in part, vacating portions of its previous Order (*Placid Oil Co.*, 40 FERC ¶ 61,112). On March 18, 1988, the FERC issued an Order affirming the RO but modifying the violation amount. *Placid Oil Co.*, 42 FERC ¶ 61,326 (1988). Subsequently, in a bankruptcy proceeding involving Placid, the U.S. Bankruptcy Court for the Northern District of Texas approved the DOE's claim of $1,196,728.09 against Placid. Placid has fulfilled its financial obligation to the DOE. As of March 31, 1995, the Placid settlement fund contained $1,691,930, including accrued interest.

D. Eton Trading Corporation

Eton and its affiliate, Eton Enterprises, Inc., were resellers of crude oil during the period June 1980 through December 1980, and were subject to the crude oil reseller regulations set forth at 10 C.F.R. Part 212, Subpart L. As the result of an ERA audit of Eton's operations, on January 14, 1986, the ERA issued a PRO to the firm alleging that it had engaged in layered crude oil transactions in violation of 10 C.F.R. § 212.186. The PRO stated that those layered transactions resulted in overcharges amounting to $9,182,412.70. On March 17, 1986, Eton filed a Notice of Objection with this Office but waived its right to contest the determinations made in the PRO by failing to file a Statement of Objections in a timely manner. Accordingly, on December 5, 1986, the OHA issued the PRO as a final Remedial Order. *Eton Trading Corp.*, 15 DOE ¶ 83,011 (1986). In July 1986, Eton Trading Corporation and Eton Enterprises filed for bankruptcy. The DOE filed identical claims in the bankruptcy proceedings of the two firms. Final distributions have been made in the Eton Trading bankruptcy proceeding, but none has been made in the Eton Enterprise proceeding. As of March 31, 1995, the Eton settlement fund contained $1,106,788, including accrued interest. Although the possibility exists that additional revenues will be distributed to the DOE in the Eton Enterprise bankruptcy proceeding, no reason exists to delay implementing distribution of the current balance of the fund.

E. Rodgers Hydrocarbon Corporation

Rodgers Hydrocarbon Corporation and Ray V. Rodgers, Jr. (referred to collectively as Rodgers), were crude oil resellers during the period of September 1977 through January 1980. On March 29, 1985, the ERA issued a PRO to Rodgers alleging that during that period, Rodgers failed to properly certify crude oil it sold as required by 10 C.F.R. § 212.131(b). In addition, the ERA alleged that Rodgers failed to submit reports and maintain books and records in accordance with 10 C.F.R. § 212.187 (a) and (b).[4] Rodgers filed a Statement of Objections to the PRO on August 26, 1985. After considering Rodgers' objections, certain provisions of the PRO were modified, and the PRO was issued as a final RO on July 20, 1989. *Rodgers Hydrocarbon Corp.*, 19 DOE ¶ 83,004 (1989). On December 4, 1989, Rodgers and the DOE executed a Consent Order resolving the issues addressed by the RO. Pursuant to the Consent Order, Rodgers agreed to pay the DOE $50,000 plus interest, in two equal payments. Rodgers paid to the DOE the sum of $51,190 and has fulfilled its financial obligation to the DOE. As of March 31, 1995, the Rodgers escrow account contained $60,199.

[2] Of that amount $5,198.52 came from Damson pursuant to its own bankruptcy proceeding.

[3] The PRO alleged violations of 10 C.F.R. §§ 211.66(b) and (h), 205.202, and 210.62(c), resulting from significant understatement of receipts of price-controlled crude oil. Specifically, ERA alleged that during the period April 1978 through December 1979, the Joint Venture consisting of Howell and Quintana Refinery Co. failed to correctly report the tier certifications associated with substantial volumes of its crude oil receipts at its Corpus Christi, Texas, refinery; and Howell Hydrocarbons, a Howell subsidiary, engaged in similar conduct during the period April 1978 through November 1980 at its San Antonio, Texas, refinery. In addition, the ERA alleged that during the period April 1978 through December 1979, Howell Industries, another subsidiary, improperly charged prices for crude oil in excess of its actual purchase prices, in violation of 10 C.F.R. §§ 212.186, 210.62(c) and 205.202.

[4] Crude oil resellers were required to file certain information on ERA–69 ''Crude Oil Reseller's Self-Reporting Forms.''

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Petroleum Overcharge Distribution and Restitution Act of 1986,* 15 U.S.C. 4501 *et seq.;* see also Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981).

We have considered the OGC's petitions that we implement Subpart V proceedings with respect to the DMLP, Howell, Placid, Eton and Rodgers funds and have determined that such proceedings are appropriate. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds. Before taking the actions proposed in this Decision, we intend to publicize our proposal and solicit comments from interested parties. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register**.

III. Proposed Refund Procedures

A. Crude Oil Refund Policy

We propose to distribute the monies received from DMLP, Howell, Placid, Eton and Rodgers in accordance with DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1986), which was issued as a result of the Settlement Agreement approved by the court in The Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11737 (April 10, 1987). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *See City of Columbus Georgia,* 16 DOE ¶ 85,550 (1987).

The amount of money subject to this Proposed Decision is $34,551,984, plus additional accrued interest. In accordance with the MSRP, we propose initially to reserve 20 percent of those funds ($6,910,397 plus additional accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges.

We propose to evaluate claims in the DMLP, Howell, Placid, Eton and Rodgers crude oil refund proceedings in exactly the same manner as in other crude oil proceedings. As we stated in the April 10 Notice, claimants will generally be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged violations. We will also presume that the alleged crude oil overcharges were absorbed, rather than passed on, by applicants who were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Price and Allocation Act of 1973, 15 U.S.C. 751–760. In order to receive a refund, such claimants need not submit any evidence of injury beyond documentation of their purchase volumes.

We propose to base the refunds on a volumetric amount which has been calculated in accordance with the description in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. *See* 57 Fed. Reg. 15562 (March 24, 1995).

Applicants who have executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Settlement Agreement have waived their rights to apply for a crude oil refund under Subpart V and should not file a crude oil refund application. *See Mid-America Dairyman Inc. v. Herrington,* 878 F.2d 1448 (Temp. Emer. Ct. App.); 3 Fed. Energy Guidelines ¶ 26,617 (1989); *In re* Department of Energy Stripper Well Exemption Litigation, 707 F. Supp. 1267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987). The deadline for filing an Application for Refund is June 30, 1995. A crude oil refund applicant is only required to submit one application for its share of all available crude oil overcharge funds. *See, e.g., Ernest A. Allerkamp,* 17 DOE ¶ 85,079 at 88,176 (1988). Accordingly, any party that has previously submitted a refund Application in the crude oil refund proceeding need not file another Application.

C. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $27,641,587 plus additional accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is therefore ordered that: The refund amounts remitted to the Department of Energy by Dorchester Master Limited Partnership, Howell Corporation, Placid Oil Company, Eton Trading Corporation and Rodgers Hydrocarbon Corporation pursuant to their respective Consent Orders or Bankruptcy Court Orders will be distributed in accordance with the foregoing Decision.

[FR Doc. 95–14915 Filed 6–16–95; 8:45 am]
BILLING CODE 6450–01–P

Notice of Implementation of Special Refund Procedures

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures

for the disbursement of $75,638.48, plus accrued interest, in refined petroleum product violation amounts obtained by the DOE pursuant to an April 10, 1985 Modified Remedial Order issued to Mockabee Gas & Fuel Oil Co. (Mockabee), Case No. VEF–0001. The OHA has determined that the funds obtained from Mockabee, plus accrued interest, will be distributed to customers who purchased No. 2 heating oil and kerosene from Mockabee during the period of November 1, 1973 through December 31, 1975.

ADDRESS: Applications must be filed in duplicate, addressed to ''Mockabee Gas & Fuel Oil Co. Special Refund Proceeding'' and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

Applications should display a prominent reference to the case number ''VEF–0001.''

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. § 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute to eligible claimants $75,638.48, plus accrued interest, obtained by the DOE pursuant to an April 10, 1985 Modified Remedial Order (MRO) issued to Mockabee Gas & Fuel Oil Co. (Mockabee). In the MRO, the DOE found that, during the period from November 1, 1973 through December 31, 1975, Mockabee sold No. 2 heating oil and kerosene in excess of the maximum lawful selling price, in violation of Federal petroleum price regulations.

The OHA has determined to distribute the funds obtained from the firms in two stages. In the first stage, we will accept claims from the identifiable purchasers of No. 2 heating oil and kerosene who may have been injured by the overcharges. The specific requirements which an applicant must meet in order to receive a refund are set out in Section III of the Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of covered product they purchased from Mockabee.

If any funds remain after valid claims are paid in the first stage, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07.

Applications for Refund must be postmarked by September 29, 1995. Instructions for the completion of refund applications are set forth in the Decision that immediately follows this notice. Applications should be sent to the address listed at the beginning of this notice.

Unless labeled as ''confidential,'' all submissions must be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 100 Independence Avenue, SW., Washington, DC 20585.

Date: June 12, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 12, 1995.

Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Name of Firm: Mockabee Gas & Fuel Oil Co.

Date of Filing: October 18, 1994

Case Number: VEF–0001

On October 18, 1994, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) to distribute $75,638.48, plus accrued interest, which Mockabee Gas & Fuel Oil Co. (Mockabee) remitted to the DOE pursuant to a Modified Remedial Order (MRO) issued by the OHA on April 10, 1985. In accordance with the provisions of the procedural regulations found at 10 C.F.R. Part 205, Subpart V (Subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of the regulatory violations set forth in the MRO. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

During the period relevant to this proceeding, Mockabee was a retailer of No. 2 heating oil, kerosene, diesel fuel, and motor gasoline in Upper Marlboro, Maryland. On December 18, 1974, the Federal Energy Administration (FEA) issued a Notice of Probable Violation to Mockabee. On January 28, 1975, the FEA issued a Remedial Order (RO) to Mockabee, finding that Mockabee had overcharged purchasers of No. 2 heating oil and kerosene. A further investigation disclosed additional overcharges other than those cited in the RO, and on December 22, 1976, the FEA rescinded the RO and issued a Revised Remedial Order requiring Mockabee to roll back prices to compensate consumers who were overcharged by Mockabee.

Mockabee failed to comply with the Revised Remedial Order. On April 10, 1985, the ERA [1] issued a Modified Remedial Order which rescinded the price rollbacks it had ordered Mockabee to make. Instead, the MRO required Mockabee to pay to the DOE $29,583.08 in assessed overcharges, and an additional $46,071.46 in interest due. On September 30, 1985, Mockabee appealed the MRO to the OHA, which denied the Appeal on December 19, 1985. *Mockabee Gas & Fuel Oil Co.*, 13 DOE ¶ 83,059 (1985). Mockabee has since remitted $75,638.48 in compliance with the MRO, which is now available for distribution through Subpart V.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan for the distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see* Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501 *et seq.*; *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

We considered ERA's Petition that we implement a Subpart V proceeding with respect to the funds remitted by Mockabee and determined that such a proceeding was appropriate. On January 11, 1995, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the money remitted by Mockabee (the Mockabee fund). That PD&O was published in the **Federal Register** and a 30-day period was provided for submission of comments regarding our proposed refund plan. *See* 60 FR 3863 (January 19, 1995). More than 30 days have elapsed, and the OHA has received no comments concerning the proposed refund procedures. Consequently, the procedures will be adopted as proposed.

[1] Under the DOE Organization Act, 42 U.S.C. 7151, *et seq.*, and Executive Order 12009, 42 Fed. Reg. 46367 (September 25, 1977), all functions vested by law in the FEA were transferred to and vested in the DOE. Within the DOE, the ERA was delegated the authority to investigate violations of applicable regulations and to seek compliance of those regulations.

III. Mockabee Refund Procedures

We will implement a two-stage refund procedure for distribution of the Mockabee fund by which purchasers of No. 2 heating oil and kerosene from Mockabee during the period covered by the MRO may submit Applications for Refund in the initial stage. From our experience with Subpart V proceedings, we expect that applicants generally will be limited to ultimate consumers (''end users''). Therefore, we do not anticipate that it will be necessary to employ the injury presumptions that we have used in past proceedings in evaluating applications submitted by refiners, resellers, and retailers.[2]

A. First Stage Refund Procedures

In order to receive a refund, each claimant must submit a schedule of its monthly purchases of No. 2 heating oil or kerosene from Mockabee during the period covered by the MRO—November 1, 1973 through December 31, 1975. Our experience also indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense and ensures that refund claims are evaluated in the most efficient manner possible. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986) (*Marathon*). Presumptions in refund cases are specifically authorized by the applicable Subpart V regulations at 10 C.F.R. § 205.282(e). Accordingly, we adopt the presumptions set forth below.

1. Calculation of Refunds

First, we adopt a presumption that the overcharges were dispersed equally over all of Mockabee's sales of products covered by the MRO during the period covered by the MRO. *See Permian Corp.*, 23 DOE ¶ 85,034 (1993). In accordance with this presumption, refunds are made on a pro-rata or volumetric basis.[3] In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining prices.

Under the volumetric approach, a claimant's ''allocable share'' of the Mockabee fund is equal to the number of gallons of covered product purchased from Mockabee during the period covered by the MRO times the per gallon refund amount. In the present case, the per gallon refund is $0.0612. We derived this figure by dividing the monies remitted by Mockabee ($75,638.48) by the total volume of covered products sold by Mockabee from November 1, 1973 through December 31, 1975 (1,236,132 gallons). A claimant that establishes its eligibility for a refund will receive all or a portion of its allocable share plus a pro-rata share of accrued interest.[4]

In addition to the volumetric presumption, we also adopt a presumption regarding injury for end-users.

2. End Users

In accordance with prior Subpart V proceedings, we adopt the presumption that an end user or ultimate consumer of covered products purchased from Mockabee whose business is unrelated to the petroleum industry was injured by the overcharges resolved by the MRO. *See, e.g., Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the overcharges on the final price of goods and services produced by members of this group would go beyond the scope of the refund proceeding. *Id.* Therefore, end-users of covered products purchased from Mockabee need only document their purchase volumes from Mockabee during the period covered by the MRO to make a sufficient showing that they were injured by the overcharges.

B. Refund Application Requirements

To apply for a refund from the Mockabee fund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for additional information, and the name and address of the person who should receive any refund check.[5] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify those names;

(2) A monthly purchase schedule covering the Remedial Order period (November 1, 1973 through December 31, 1975). The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the Remedial Order period, if available. If these records are not available, the applicant may submit estimates of its purchases of covered products, but the estimation method must be reasonable and clearly explained;

(3) A statement whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in this refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(4) If the applicant is or was in any way affiliated with Mockabee, it should explain this affiliation, including the time period during which it was affiliated.[6]

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[2] If a refiner, reseller, or retailer should file an application in this refund proceeding, however, we will utilize the standards and appropriate presumptions established in previous proceedings. *See, e.g., Stark's Shell Service*, 23 DOE ¶ 85,017 (1993); *Shell Oil Co.*, 18 DOE ¶ 85,492 (1989).

[3] If an individual claimant believes that it was injured by more than its volumetric share, it may elect to forego this presumption and file a refund application based upon a claim that it suffered a disproportionate share of Mockabee's overcharges. *See, e.g., Mobil Oil Corp./Atchison, Topeka and Santa Fe Railroad Co.*, 20 DOE ¶ 85,788 (1990); *Mobil Oil Corp./Marine Corps Exchange Service*, 17 DOE ¶ 85,714 (1988). Such a claim will be granted if the claimant makes a persuasive showing that it was ''overcharged'' by a specific amount, and that it absorbed those overcharges. *See Panhandle Eastern Pipeline Co./Western Petroleum Co.*, 19 DOE ¶ 85,705 (1989). To the degree that a claimant makes this showing, it will receive an above-volumetric refund.

[4] As in previous cases, we establish a minimum refund amount of $15. In this proceeding, any potential claimant purchasing less than 245 gallons of covered product from Mockabee would have an allocable share of less than $15. We have found through our experience that the cost of processing claims in which refund amounts of less than $15 are sought outweighs the benefits of restitution in those instances. *See Exxon Corp.*, 17 DOE ¶ 85,590 (1988).

[5] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not submit a social security number must submit an employer identification number, if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restititution Act of 1986 and other regulations codified at 10 CFR Part 205, Subpart V. The information may be shared with other federal agencies for statistical, auditing or archival purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

[6] As in other refund proceedings involving alleged refined products violations, the DOE will presume that affiliates of the Remedial Order firm were not injured by the firm's overcharges. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,288 (1987). This is because the Remedial Order firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive

Continued

(5) The statement listed below, signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application, which will be placed in the OHA public reference room.

All applications should be either typed or printed clearly and labeled ''Mockabee Gas & Fuel Oil Co. (Case No. VEF–0001) Special Refund Proceeding.'' Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for that information to be publicly disclosed, it must submit an original application, clearly designated ''confidential,'' containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked on or before September 29, 1995 and sent to: Mockabee Gas & Fuel Oil Co. Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

C. Refund Applications Filed by Representatives

We adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by ''representatives,'' including refund filing services, consulting firms, accountants, and attorneys. *See, e.g., Stark's Shell Service*, 23 DOE ¶ 85,017 (1993); *Texaco, Inc.*, 20 DOE ¶ 85,147 (1990); *Shell Oil Co.*, 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 C.F.R. § 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant. The OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service should contain all of the information indicated in this Decision.

Finally, the OHA reserves the authority to require additional information before granting any refund in this proceeding. Applications lacking the required information may be dismissed or denied.

D. Distribution of Funds Remaining After First Stage

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. The PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any monies in the Mockabee fund that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of the PODRA.

It is therefore ordered that: (1) Applications for Refund from the funds remitted to the Department of Energy by Mockabee Gas & Fuel Oil Co. pursuant to the Modified Remedial Order dated April 10, 1985 may now be filed.

(2) Applications must be postmarked no later than September 29, 1995.

Dated: June 12, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–14916 Filed 6–16–95; 8:45 am]

BILLING CODE 6450–01–P

disadvantage. *See Marathon Petroleum Co./Pilot Oil Corp.*, 16 DOE ¶ 85,611 (1987), *amended, claim denied*, 17 DOE ¶ 85,291 (1988), *reconsideration denied*, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the Remedial Order firm were granted a refund, the Remedial Order firm would be indirectly compensated from a Remedial Order fund remitted to settle its own alleged violations.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5222–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 19, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of the ICR contact Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR #1753.01.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: National Survey of Gross Alpha Methodology (EPA ICR No. 1753.01).

Abstract: The purpose of this survey is to assess the origins of statistical variance for gross alpha (radio-analytical) measurements performed on drinking water samples by laboratories as required under Section 1401 of the Safe Drinking Water Act (SDWA). The National Primary Drinking Water Regulations required under Section 1401 of the SDWA, and as described in a recent proposed rulemaking (vol. 56, No. 138 **Federal Register**) for gross alpha contamination, establish Maximum Contaminant Levels (MCLs) for radiological contamination, including gross alpha contamination in drinking water. In support of the SDWA and MCL Goals, a survey is needed to identify the source of inaccuracies in gross alpha data presently collected by USEPA and make appropriate changes to existing methodologies to ensure the accurate measurement and calculation of gross alpha contamination.

EPA will distribute the mail questionnaires and ask laboratories to voluntarily provide information that includes: (1) name, address, location and point of contact information, (2) type of radioanalytical methodology performed by laboratories, (3) quality control information, (4) efficiency curve data, and (5) types of counting instrumentation.

The EPA will collect the questionnaires and enter the information into computerized database for statistical analysis.

Burden Statement: Public reporting burden for this collection of information is estimated to average (1) hour per response including reviewing instructions, searching existing information sources, completing and reviewing the collection of information, and submitting the information to EPA.

Respondents: Federal, State, local, and private radio-analytical laboratories.

Estimated Number of Respondents: 350.

Frequency of Collection: One time.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 350 hours.

Send comments regarding the burden estimate, or any other aspect of this

collection of information, including suggestions for reducing the burden, (please refer to EPA ICR #1753.01):

Sandy Farmer, EPA #1753.01, U.S. Environmental Protection Agency, Information Policy Branch (2316), 401 M Street, SW., Washington, DC 20460
and
Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503

Dated: June 12, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–14801 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5223–8]

Meeting of the Small Town Environmental Planning Task Force

On July 10, 11 and 12, 1995, the Small Town Environmental Planning Task Force (STTF) will conduct its fifth meeting. The purpose of the meeting is to review and discuss the reports of the various work groups, prepare draft reports for full committee review and approval, prepare an outline and draft of the STTF's Final Recommendations Report to the Administrator, discuss state/local/federal roles and responsibilities in the current environment, and activities necessary to comply with the provisions of the Small Town Environmental Planning Act (42 U.S.C. 6908).

The Task Force is charged with identifying regulations developed pursuant to Federal environmental laws which pose significant compliance problems for small towns; identifying the means to improve the working relationship between the Environmental Protection Agency and small towns; reviewing proposed regulations for the protection of environmental and public health and suggesting revisions that could improve the ability of small towns to comply with such regulations; and identifying the means to promoting regionalization of environmental treatment systems and infrastructure.

The meeting will be held at the Holiday Inn Hotel and Suites, located at 625 First Street, Alexandria, VA 22314. The meeting will begin at 9 a.m. on July 10th and conclude at 2 p.m. on July 11th.

The Designated Federal Officer (DFO) for this Committee is Christine Zawlocki. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–0244 or by writing to: U.S. EPA, 401 M Street, SW. 1502, Washington, DC 20460

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available within forty-five days after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the above number if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible.

Christine Zawlocki,

Designated Federal Official, Office of Regional Operations and State/Local Relations.

[FR Doc. 95–14907 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5224–2]

Lithium of Lubbock Superfund Site: Proposed Settlement

SUMMARY: Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for past response costs at the Lithium of Lubbock Superfund Site in Lubbock, Texas with the following parties:

United States Coast Guard
The Defense Reutilization and Marketing Service
California Institute of Technology
Altus Corporation
West Texas Warehouse
Burlington Northern Railroad

EPA will consider public comments on the proposed settlement for 30 days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Mr. John R. Burleson, Superfund Enforcement Branch (6H–EC), U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6728.

Written comments may be submitted to the person above for 30 days from the date of publication.

Dated: June 1, 1995.

Allyn M. Davis,

Acting Regional Administrator, U.S. EPA, Region 6

[FR Doc. 95–14909 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 12, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0169.

Title: Sections 43.51 and 43.53 - Reports and Records of Communications Common Carriers and Certain Affiliates.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 374 responses; 16.1 hour burden per response; 6,029 hours total annual burden.

Needs and Uses: Sections 43.51 and 43.53 require reports by which the Commission gathers information concerning carriers which it examines relating to the activities of that carrier which may effect charges and services and rendered.

OMB Number: N/A.

Title: Amendment of Part 65 and 69 of the Commission's Rules to Reform the Interstate Rate of Return Presription and Enforcement Processes.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 5 responses; 10,000 hours burden per response; 50,000 hours total annual burden.

Needs and Uses: The Order revises the Part 65 rules governing the procedures and methodologies for prescribing and enforcing the rate of

return for certain LECs. Specifically, the Order replaces the existing rule, which initiates represcription proceedings biennially, with a semiautomatic trigger activated by changes in capital costs; modifies the paper hearing rules set out in Part 65; streamlines the methodolgies used to estimate the cost of capital and removes the automatic refund rule.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–14874 Filed 6–16–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Reports on Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks and to Own Bank.

Form Number: Form FFIEC 004.

OMB Number: 3064–0023.

Expiration Date of OMB Clearance: September 30, 1995.

Frequency of Response: On occasion.

Respondents: Bank executive officers and principal shareholders from either their own bank or correspondent bank.

Number of Respondents: 28,044.

Annual Hours per Respondent: 2.

Total Annual Hours: 56,088.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, Paperwork Reduction Project (3064–0023), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted before [insert 60 days after date of publication in the **Federal Register**].

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: FDIC Regulation 12 CFR 349 requires annual reports of borrowings by bank executive officers and principal shareholders from either their own bank or from correspondent banks. The information is retained by the banks and made available to the public upon request.

Dated: June 13, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary (Administration).

[FR Doc. 95–14846 Filed 6–16–95; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Robert F. Long; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 3, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Mr. Robert F. Long, Carlisle, Pennsylvania; to acquire an additional 1.24 percent, for a total of 10.57 percent, of the voting shares of United Financial Banking Companies, Inc., Vienna, Virginia, and thereby indirectly acquire The Business Bank, Vienna, Virginia.

Board of Governors of the Federal Reserve System, June 13, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14889 Filed 6–16–95; 8:45 am]

BILLING CODE 6210–01–F

Marshall & Ilsley Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 3, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to acquire through its subsidiary, M&I Data Services, Inc., Milwaukee, Wisconsin, Mutual Services, Inc., Braintree,

Massachusetts, and thereby engage in data processing services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 13, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14890 Filed 6–16–95; 8:45 am]

BILLING CODE 6210–01–F

Totalbank Corporation of Florida; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 13, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Totalbank Corporation of Florida, Miami, Florida; to acquire 100 percent of the voting shares of Florida International Bank, Perrine, Florida.

Board of Governors of the Federal Reserve System, June 13, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–14891 Filed 6–16–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Notice of Proposed Rulemaking (NPRM) for the Developmental Disabilities Program.

OMB No.: N.A.

Description: The Developmental Disabilities Program provides financial assistance through formula & discretionary grant programs to States, non-project organizations & to universities. Information needs are based on statutory requirements & provides compliance progress reporting and financial management of the State plan, Protection & Advocacy System, University Affiliated Programs & Projects of National Significance.

Respondents: State Local or Tribal Government, and Not-for-Profit Institutions.

Annual Number of Respondents: 56 sites.

Number of responses per respondent: 1

Total annual responses: 56 sites

Hours per response: 50

Total Annual Burden Hours: 2,800

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 12, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–14857 Filed 6–16–95; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

Title: Low Income Home Energy Assistance Program LIHEAP Leveraging Report.

OMB No.: 0970–0121.

Description: ACF needs this information to carry out statutory requirements for administering the LIHEAP leveraging incentive program—to determine countability and valuation of grantees' leveraged home energy resources, and to determine grantees' shares of leveraging incentive funds.

Respondents: States, Indian tribes, and territories.

Annual Number of Respondents: 70 sites.

Number of responses per respondent: 1.

Total annual responses: 70 sites.

Hours per response: 40.

Total Annual Burden Hours: 2,800.

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 12, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–14856 Filed 6–16–95; 8:45 am]

BILLING CODE 4184–01–M

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to David Sadowski, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 288; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Dental Implant Modification

Kisielewski, R.W., Hastings, C.K., McCarthy, G.R. (FDA)
Filed 19 Apr 95
Serial No. 08/424,786.

Description of the Invention: Implanted dental prostheses are subjected to large forces acting in different directions within severely-limited space. Screw and/or nut connections, while useful in the construction of these prostheses, are subject to relative rotations which can lead to undesirable loosening of the implant at inopportune times. The present invention greatly inhibits the undesirable loosening of the dental prosthesis by providing for a linear, axial transmission of forces from the prosthesis to a tubular spacer and an implanted base by the retaining nut. This invention has the additional advantage of permitting relatively easy retrofitting of existing dental prostheses which were prone to failure due to loosening when the retaining nut or screw turned under the forces normally found in previously available prostheses.

Potential Areas of Application: Applicable to improvement of dental prostheses used world-wide; design adaptable to other prosthetic securing applications.

Main Advantages of Invention: Inexpensive to apply to existing prostheses; much improved functional design. [portfolio: Dental Technology—Therapeutics, implants]

Drycleaning Secondary Vapor Isolation and Removal System

Earnest, G.S., Froehlich, P.A. (NIOSH)
Filed 27 Oct 94
Serial No. 08/329,920.

Description of the Invention: A system which reduces environmental emissions and operator exposure to solvent vapors associated with dry cleaning machines. Dry cleaning solvents such as perchloroethylene are known to cause liver and kidney damage and to contribute to ozone depletion. Due to the operational nature of dry cleaning machines, which involves continuous loading and unloading, operators are exposed to solvent vapors which are emitted each time the machines are opened. The invention involves a ventilation system which isolates, contains and removes residual solvent vapors before a dry cleaning machine chamber is opened.

Potential Areas of Application: Closed circuit dry cleaning machines; exhausting dry cleaning machines; single and multiple bath processing machines.

Main Advantages of Invention: Reduce worker exposure to hazardous solvent vapors; reduce emission of hazardous vapors into the environment; can be retrofitted onto existing dry cleaning machines.

Stage of Development: Conceptual only. [portfolio: Devices/Instrumentation—Environmental Technology, prevention, apparatus]

An Integrating Sphere Which Delivers a Homogeneous Beam of Laser Light for Use in Photodynamic Therapy

Smith, P.D., Cole, J., Harrington, F., Bernstein, E. (NCRR)
Filed 24 May 94
Serial No. 08/248,918.

Description of the Invention: An irradiation attachment for an optical fiber which provides an output of light that has a highly uniform intensity. Frequently, optical fibers are used in illumination delivery systems. However, in general the output from optical fibers is irregular due to a number of factors which include: imprecise introduction of light into the fiber; imperfect cleaving or polishing of the fiber output face; and distortions introduced by handling the fiber. The inventive device simply attaches to the end of a delivery optical fiber and overcomes the irregularities and produces a uniform level of illumination. The inventive device permits uniform irradiation of irregularly shaped objects.

Potential Areas of Application: Photodynamic therapy; treatment of psoriasis; uniform illumination of flat and raised surfaces.

Main Advantages of Invention: Simple attachment to optical delivery fibers; hand held; uniform illumination of flat and raised surfaces.

Stage of Development: Prototype built and tested on laboratory animals. [portfolio: Devices/Instrumentation—Therapeutics, instruments]

Ventilated Casting Grinding Workstation With Turntable

Gressel, M.G. (CDC)
Filed 20 May 94
Serial No. 08/247,181.

Description of the Invention: A new ventilated workstation which reduces worker exposure to hazardous particulate materials has been invented. In conventional foundry casting operations, castings are cleaned by hand using pneumatic chipping and grinding tools. The grinding and chipping of sand burnt into the castings results in a discharge of respirable silica particles. The workstation of the present invention is equipped with a rotatable workpiece holder which allows all surfaces of the workpiece to be positioned so that particles discharged by grinding or machining are directed toward a ventilation area at which the discharged particles are removed.

Potential Areas of Application: Cleaning foundry castings; machining workpieces.

Main Advantages of Invention: Reduces worker exposure to hazardous particulate materials; easy to retrofit to existing ventilated workstations.

Stage of Development: Prototype built, tested, and evaluated.

Recent Publications: Abstract entitled ''An Evaluation of a Local Exhaust Ventilation Control System for Casting Cleaning in a Foundry,'' May 21–27 meeting of the American Industrial Hygiene Conference and Exhibition (1994); NTIS Technical Report. [portfolio: Devices/Instrumentation—Environmental Technology, equipment and machinery]

Magnetic Resonance Monitor

(Bowman, J.D., Engel, D.P. (NIOSH)
Filed 29 Apr 94
Serial No. 08/235,833.

This invention relates to measurement of static and extremely low frequency magnetic fields. Further, it permits measurement of environmental magnetic fields which are in magnetic resonance with magnetic moments in a biological organism, particularly the human body. This invention overcomes deficiencies in current systems, such as: only measuring oscillating magnetic fields, measuring static and oscillating fields with Hall-effect or flux-gate probes, and measuring static and oscillating fields and all their characteristics without taking into consideration chemical and biological effects. [portfolio: Devices/Instrumentation—Environmental Technology, methods of testing]

Dated: June 8, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–14899 Filed 6–16–95; 8:45 am]

BILLING CODE 4140–01–P

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally

funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to John Fahner-Vihtelic, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 285; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Production and Use of Anti-Dorsalizing Morphogenetic Protein

Moos, M., Jr., Krinks, M., Wang, S. (FDA)
Filed 8 Nov 94
Serial No. 08/335,583.

In recent years, a number of members of the TGF–β superfamily have been discovered which serve as growth factors in the development of bone, or participate in a variety of developmental processes. This case discloses a novel member of the TGF–β superfamily, designated Anti-dorsalizing morphogenetic protein-1, or ADMP–1. ADMP–1 is most closely related to human bone morphogenetic protein-3, and counters dorsalizing influences during development. ADMP–1 can be used as a pharmaceutical to treat inappropriate proliferation of neural crest derivative tissues, such as neuroblastomas, as well as a probe for finding and cloning other ADMPs. The case claims isolated ADMP–1, pharmaceutical preparations employing ADMP–1, diagnosis of genetic lesions involving this protein, and methods of treatment of conditions involving inappropriate proliferation of tissues by administering ADMP-l. [*portfolio: Cancer—Research Reagents*]

Improvements in the Ability of Neural Networks, Particularly Dystal, To Distinguish Among Small Differences in Similar Inputs

Alkon, D.L., Vogl, T.P. (NINDS)
Filed 14 Nov 94
Serial No. 08/331,554.

This application describes a powerful associative learning neural network system and improvements designed to enhance decision making. This invention consists of a basic architectural unit of certain inputs and outputs. Interposed between inputs and outputs are ''patches'' or storage areas of dynamic interaction between conditioned and unconditioned signals. The patches process information to achieve associative learning locally under rules designed for application-related goals of the system. This technology far exceeds the power and utility of previous neural networks with features such as: rapid incremental learning without supervision, self organizing and insensitive to global parameters, and associates extremely noisy and heterogeneous patterns. The utility of this technology has been proven with complex experimental applications. [*portfolio: Devices/Instrumentation—Software, artificial intelligence*]

Fluorescent and NMR Sensitive Intracellular pH Indicators

London, R.E. Levy, L.A., Murphy, E., Gabel, S. (NIEHS)
Filed 11 Oct 94
Serial No. 08/320,986.

This invention discloses compositions and methods useful for measuring pH. Specifically, this invention teaches the measurement of intracellular pH and a new class of fluorescent and fluorinated (NMR sensitive) aromatic compounds. These compounds have excitation wavelengths in the ultraviolet or visible portions of the electromagnetic spectrum. In addition to being useful for pH indicators, fluorine containing analogs of these compounds have shown utility for NMR spectroscopic determinations. The present invention overcomes the disadvantages of pk values that are not matched to the cytosol, leaking, and binding to cellular protein, found in current fluorescent intracellular pH probes. [*portfolio: Internal Medicine—Diagnostics, imaging, agents*]

Method and System for Doppler Ultrasound Measurement of Blood Flow

Adam, D.R., Kempner, K.M., Vivino, M.A., Tucker, E.E., Jones, M. (DCRT)
Filed 24 Sep 94
Serial No. 08/300,718

This invention discloses a system and method for providing Doppler flow velocity data that is corrected for misalignment between the flow direction within a vessel and the beam orientation of the ultrasound probe. A conventional ultrasonic Doppler color mapping system was adapted to include an apparatus to measure and record the free space position and orientation of the ultrasonic probe. A set of 2D image planes, which need not be parallel, is acquired. A structural representation derived from the acquired data is used to determine the flow direction for the imaged vessel. This apparatus and method has advantages over other systems because it offers the ability to measure flow distributions with a hand-manipulated probe. [*portfolio: Devices/Instrumentation—Diagnostics, imaging, ultrasound*]

Method and System for Multidimensional Localization and Rapid Magnetic Resonance Spectroscopic Imaging

Posse, S., Le Bihan, D. (CC)
Filed 15 Aug 94
Serial No. 08/290,348 (CIP of 08/224,942).

A newly developed method and system for multidimensional localization and rapid magnetic resonance spectroscopic imaging allows for quicker, more accurate imaging of metabolites in biologic tissue. Nuclear magnetic resonance (NMR) techniques have long been used to obtain spectroscopic information about substances in order to reveal the substance's chemical composition. More recently, spectroscopic imaging techniques have been developed that combine magnetic resonance imaging (MRI) with NMR spectroscopic techniques, thus providing a spacial image of the chemical composition; however, previously available techniques for making such measurements have been hampered by limitations in prelocalization of samples due to long echo times as well as long data acquisition times. Most of these systems often generate spectral as well as spacial data due to the long echo times, and their localization techniques are not applicable to acquiring multiple-volume data from nuclei that have short T2 relaxation times. This new system circumvents these limitations by applying pulse sequence to a conventional MRI apparatus, which allows the rapid acquisition of data for generating spectroscopic images and greatly shortens the echo time. Spatial prelocalization of a volume of interest is achieved by providing a presuppression sequence before a stimulated echo (STE) sequence and a suppression sequence before the interval of the STE sequence. [portfolio: Devices/Instrumentation—Diagnostics, imaging apparatus, MRI]

Method and System For MRI Detection of Abnormal Blood Flow

Moonen, C.T., Duyn, J., van Gelderen, P. (NCRR)

Filed 5 Aug 94

Serial No. 08/286,783.

The present invention disclosure describes a magnetic resonance imaging system and method for detecting blood flow abnormalities. This is

accomplished by determining the time delay for the arrival of a bolus of MR contrast agent into a localized region of tissue. This arrival is observed in a series of magnetic resonance signals obtained subsequent to the bolus injection. A rapid series of imaging pulse sequences acquires the time development of the signal from the localized regions within the imaged field of view of the body. The arrival time for the bolus into a given localized region is determined from the acquired time data, and the relative arrival time among regions in the imaged field of view indicated whether there is decreased blood flow to certain areas. This method and system has the potential to replace some of the invasive procedures now in use to determine blood flow through certain body tissues. [portfolio: Devices/Instrumentation—Diagnostics, imaging, methods]

DNA Sequence Which Acts as a Chromatin Insulator Element To Protect Expressed Genes From Cis-Acting Regulatory Sequences

Chung, J., Felsenfeld, G. (NIDDK)
Filed 29 Jul 94
Serial No. 08/283,125 (CIP of 08/045,266).

Novel method of insulating functional DNA domains introduced into higher leukaryotic cells from the effects of the cell's cisacting regulatory elements. The invention represents the first pure insulator to be demonstrated to function in human cells. The element promises to be a useful tool in gene therapy, gene transfer techniques, and studies involving gene regulation and other gene expression technologies. [portfolio: Cancer—Therapeutics, gene therapy]

Spectroscopic Imaging Device Employing Quality Spectral Filters

Lewis, E.N., Levin, I.W., Treado, P.J. (NIDDK)
Serial No. 08/236,655
Patent Issued 27 Dec 94
U.S. Patent No. 5,377,003.

This novel imaging device, which integrates both light microscopy and spectroscopy, allows for the cost-effective development of high-resolution spatial, chemical, and spectral images. It provides a rapid means for examining and collecting large format images from vibrational and visible spectra in a three-dimensional sample. It is superior to current equipment because it has no moving parts. This device may be used as a tool for the characterization of polymers and semiconductors and has potential as a diagnostic tool for clinical analysis of histologic materials. [portfolio: Devices/Instrumentation—Diagnostics, imaging, spectroscopy]

Method To Enhance the Sensitivity of MRI for Magnetic Susceptibility Effects

Moonen, C.T. (NCRR)
Filed 13 Aug 93
Serial No. 08/106,372 (CIP of 07/841,994).

A novel fast-imaging method resulting in enhanced sensitivity to T2* changes was developed. This new technique is unlike other methods in that it is based on gradient-recalled echoes of spins whose excitation and echo formation are separated by one or more TR period. It does not require chemical shift refocusing and, thus, results in increased T2* sensitivity. The new method improves the ability of functional MRI based on T2* effects. [portfolio: Devices/Instrumentation—Diagnostics, imaging methods]

Dated: June 8, 1995.

Barbara M. McGarey, J.D.

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–14897 Filed 6–16–95; 8:45 am]

BILLING CODE 4140–01–P

Opportunity for Licensing: Pharmaceutical Preparations Containing Cyclodextrin Derivatives

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Department of Health and Human Services, seeks licensee(s) for U.S. Patent 4,727,064, entitled ''Pharmaceutical Preparations Containing Cyclodextrin Derivatives,'' which issued February 23, 1988. This invention describes a method of improvement of pharmaceutical preparations which comprises the addition of crystalline drugs with substantially low solubility to cyclodextrin compounds which are water soluble, have the ability to form inclusion complexes with the drugs in question, and are intrinsically amorphous and substantially decrease the tendency of the drug to crystallize.

This U.S. Patent had been exclusively licensed to Pharmatec Inc. and Cyclex Inc. (see **Federal Register** of September 10, 1987—52 FR 34268) by the National Technical Information Service (NTIS). The period of general exclusivity provided under the NTIS agreements has expired and the patent is now available for licensing. NTIS has transferred custody of this case to NIH and NIH has the right to grant nonexclusive or exclusive licenses to this patent in most fields of use. In particular, NIH can grant an exclusive license for the use of cyclodextrin technology in combination with ''drug actives'' that are approved for a particular use by the Food and Drug Administration (FDA) if the drug active itself or its FDA-approved use is covered by a U.S. patent.

NIH intends to grant the selected firm(s) royalty-bearing license(s) to practice the inventions embodied in U.S. Patent 4,727,064 in the U.S. for all or some of the available fields of use. The patent rights in these inventions have been assigned to the United States of America.

SUPPLEMENTARY INFORMATION: The NIH seeks licensee(s), who in accordance with requirements and regulations governing the licensing of government-owned inventions (37 CFR Part 404), have the most meritorious plan for the development of the cyclodextrin technology to a marketable status to meet the needs of the public and with the best terms for the NIH. The criteria that NIH will use to evaluate license applications will include, but not be limited to those set forth by 37 CFR 404.7(a)(1)(ii)–(iv).

ADDRESSES: Requests for a copy of the patent, license application form, or other questions and comments concerning the licensing of this technology should be directed to: Carol C. Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext 287; fax: 301/402–0220.

Dated: June 5, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–14898 Filed 6–16–95; 8:45 am]

BILLING CODE 4140–01–P

Office of Inspector General

Program Exclusions: May 1995

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of May 1995, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and

Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all other Federal non-procurement programs.

Subject city, state	Effective date
Program-related convictions:	
Boucher, Dana	06/05/95
Old Orchard Bch, ME.	
BZM Royalty, Inc	06/05/95
Bronx, NY.	
Corcoran, William	06/05/95
Mastic Beach, NY.	
Culala, Pascual R	06/01/95
Saratoga, CA.	
Enriquez, Norma V	06/01/95
Vallejo, CA.	
Ferrand, Denis Christopher	06/04/95
Rockford, MI.	
Fomenko, Svetlana	06/05/95
Brooklyn, NY.	
Galluzzo, Alfred J	06/04/95
Janesville, WI.	
Gard, Rosie A	06/04/95
Edmund, WI.	
Lane, Timothy J	06/05/95
Jacksonville, FL.	
Law, Daniel	06/04/95
Greenfield, WI.	
Makowski, Dennis Edward	06/04/95
Troy, MI.	
Sanders, Denise	06/05/95
Sickerville, NJ.	
Schwartz, Isaac	06/05/95
Lawrence, NY.	
Super Care Medical Supplies, Broadview, IL	06/04/95
Patient Abuse/Neglect Convictions:	
Altreche, Arturo	06/05/95
Brooklyn, NY.	
Close, Ann	06/05/95
Salem, MA.	
Cooper, Mary L	06/01/95
Little Rock, AR.	
Gadley, Loretta	06/05/95
Lackawana, NY.	
Jones, Dawn M	06/05/95
Troy, AL.	
Lancour, Howard M	06/05/95
Montpelier, VT.	
Sevillano, Marta A	06/05/95
Framingham, MA.	
Vlcko, Peter B	06/04/95
Bloomfield Hills, MI.	
Williams, Ronald	06/04/95
Detroit, MI.	
Conviction for health care fraud:	
Garone, Deanna	06/05/95
Howard Beach, NY.	
Ucer, Erol	06/04/95
Grand Blanc, MI.	
Controlled substance convictions:	
Arnold, John Jacob	06/05/95
Curwensville, PA.	
Han, Sum Kyung	06/05/95
Pittsburgh, PA.	
Haver, Joseph B	06/05/95
Punxsutawney, PA.	
License revocation/suspension/surrender:	
Black, James Rutherford II	06/05/95
Birmingham, AL.	
Cohen, Teddy Alan Alexandria, VA	06/05/95
Cordovani, John J	06/05/95
Alexandria, VA.	
Domino, Constance M	06/07/95
Minneapolis, MN.	
Ferrari, Francis M	06/05/95
Kearny, NJ.	
Franklin, Gerald S	06/05/95
Amherst, MA.	
Hensrud, Mary J	06/07/95
Minneapolis, MN.	
Irisari, Oscar Solidum	06/05/95
Moundsville, WV.	
Kabir, David I	06/05/95
Alexandria, VA.	
Limberopoulos, William M	06/05/95
Pelham, NH.	
Lyng, Gwendolyn A	06/07/95
Winsted, MN.	
Marcotuli, Alfonso A	06/05/95
New Castle, PA.	
Michael, James C	06/05/95
Newport, RI.	
Mikesell, Stacey L	06/05/95
Newton, MA.	
Musikant, David S	06/05/95
Paoli, PA.	
Zajac, William	06/05/95
Thompson, CT.	
Federal/State exclusion/suspension:	
Arrillaga, Abenamar	06/05/95
New York, NY.	
Bakhtiar, Farhang	06/05/95
Woodbury, NY.	
Easycare Home Medical Equipmnt	06/05/95
Congers, NY.	
Holle, Cheryl L	06/01/95
Concordia, KS.	
Ram, Moorthy S	06/05/95
Wheeling, WV.	
Owned/Controlled by Convicted/excluded:	
Eye Physicians & Surgeons Corp	06/05/95
S Charleston, WV.	
Eye Physicians & Surgeons Corp	06/05/95
S Charleston, WV.	
Default on heal loan:	
Abbott, Brian L	06/05/95
Nyack, NY.	
Alexander, Marsha	06/01/95
Rio Vista, CA.	
Amouhashem, Parvin	06/05/95
Alexandria, VA.	
Basedow, William K	06/04/95
Saint Marys, OH.	
Berry, Linda R	06/05/95
Johnston, RI.	
Bottorff, Douglas J	06/04/95
Kansas City, MO.	
Boyer, Glenn D	06/07/95
Dania, FL.	
Burch, Gregory D	06/01/95
Riverside, CA.	
Byrd, Daryl C	06/01/95
New Orleans, LA.	
Collins, Henry L	05/16/95
Chicago, IL.	
Cooley, Stephen L	06/01/95
Estes Park, CO.	
Coronado, Rudolph K	06/14/95
Pembroke, NC.	
Desantis, Nicholas G	06/01/95
La Mesa, CA.	
Downes, John W	06/14/95
Kennesaw, GA.	
Drier, Yolanda J	06/14/95
Ormond Beach, FL.	
Ellis, Cynthia E (Harris)	06/01/95
Austin, TX.	
Gallagher, Tamara G	06/01/95
Chino, CA.	
Gidowski, Frank W	06/01/95
Sun City West, AZ.	
Glenn, John Asbury Jr	06/14/95
Eastman, GA.	
Glum, Gary L	06/01/95
Los Angeles, CA.	
Goodman, William D	06/01/95
Magnolia, AR.	
Greene, David Allan	06/01/95
Santa Maria, CA.	
Greenwald, Lewis A	06/07/95
N Miami Beach, FL.	
Hahn, Peter S	06/01/95
Placentia, CA.	
Harcus, James M	06/04/95
Chicago, IL.	
Harrison, Rodney B	06/01/95
Montclair, CA.	
Headley, Patricia D	06/01/95
Tonkawa, OK.	
Herber, Harry A	06/01/95
Grover City, CA.	
Herbst, Stephen H	06/04/95
Winona, MO.	
Hubon, Joyce A Lender	06/01/95
Anaheim, CA.	
Husbands, Michael L	06/01/95
Corona, CA.	
Jacobson, Robert	06/05/95
Queens, NY.	
Kelly, Mark S	06/01/95
Chino, CA.	
Landrum, Keith	06/01/95
Hawthorne, CA.	
Lillie, Richard W	06/01/95
San Dimas, CA.	
Lowy-Berry, Christine L	06/01/95
Glendora, CA.	
Lyons, Glynnis J	06/07/95
Tampa, FL.	
Mahar, Deborah Zeitsoff	06/01/95
Costa Mesa, CA.	
Mandracchia, Philip A	06/05/95
Palm Beach Gardens, FL.	
Martin, Craig S	06/14/95
Athens, GA.	
McKinney, Laurence T	05/12/95
Hilo, HI.	
Mendelson, Sol	06/01/95

Subject city, state	Effective date
Alta Loma, CA.	
Michals, Robert H	06/01/95
Aurora, CO.	
Miller, Harry Matthew	06/05/95
Linwood, NJ.	
Moore, Edwin William	06/01/95
Long Beach, CA.	
O'Leary, Molly M	06/04/95
Kansas City, MO.	
Orr, William S	06/01/95
Canon City, CO.	
Perry, Keith O	06/01/95
Los Angeles, CA.	
Rose, Stefan	06/07/95
Miami, FL.	
Shaw, Michael P	06/01/95
Fremont, CA.	
Shelby-Calvin, Rosetta Marie	06/01/95
Little Rock, AR.	
Shin, Hui-Yong	06/01/95
Los Angeles, CA.	
Somlar, Steven C	06/04/95
Chicago, IL.	
Stanton, Lawrence P	06/01/95
Seattle, WA.	
Staples-Horne, Michelle J	06/05/95
Ellenwood, GA.	
Stewart, Mark I	06/05/95
Savannah, GA.	
Teusink, Scott H	06/05/95
Staten Island, NY.	
Thomas, Lindwall A	06/05/95
Silver Spring, MD.	
Volk, Anthony M	06/01/95
Pappillion, NE.	
Wade, Eric V	06/01/95
Tyler, TX.	
West, Marvin L	06/14/95
Montgomery, AL.	
Westing, Denise D	06/01/95
Alameda, CA.	
Wright, Richard O	06/05/95
Virginia Beach, VA.	

Dated: June 7, 1995.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 95–14912 Filed 6–16–95; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3924]

Notice 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 within thirty (30) days from the date of this Notice. 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: Key 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).

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: June 12, 1995

David S. Christy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Survey of Mortgage Lending Activity.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The surveys will be used to obtain information on the developments in the mortgage market. They will be used to monitor such developments and to provide statistical data to Federal, state, and non-governmental entities.

Form Number: HUD–136.1 through HUD–136.5.

Respondents: State, Local, or Tribal Government, Business or Other For-Profit, and the Federal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Surveys	616		12		1.50		11,832

Total Estimated Burden Hours: 11,832.

Status: Extension with changes.

Contact: John N. Dickie, HUD, (202) 755–7470; Michael C. Wells, HUD, (202) 755–7470; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 12, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Statement of Taxes.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Form HUD–434 will be used by the Department to record the necessary information pertaining to taxes to enable HUD to establish its tax records and to continue immediate payment of taxes. The form will also verify the taxes paid when the lender's claim is audited for insurance benefits.

Form Number: HUD–434.

Respondents: State, Local or Tribal Government, Businesses or Other For-Profit, and the Federal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Form HUD–434	250		1		.5		125

Total Estimated Burden Hours: 125.

Status: Extension with changes.

Contact: Gary G. Zimmerman, HUD, (202) 401–2168; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated June 12, 1995.

[FR Doc. 95–14930 Filed 6–16–95; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3655–N–02]

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 within thirty (30) days from the date of this Notice. 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: June 12, 1995.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: HUD Condominium ''Spot Loan'' Checklist and Warranty (FR–3655).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The Condominium Spot Loan program permits the Department to insure mortgages in viable condominium projects that do not have HUD or VA approval. Lenders will use this form to determine a single unit's eligibility for FHA mortgage insurance.

Form Number: None.

Respondents: Businesses or Other For-Profit.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	2,000		1		.1		200

Total Estimated Burden Hours: 200.

Status: New.

Contact: Susan Hoyer, HUD, (202) 708–2700; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 12, 1995.

[FR Doc. 95–14932 Filed 6–16–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Administration

[Docket No. FR–3918–N–02]

Privacy Act of 1974; Computer Matching Program

AGENCY: Office of the Assistant Secretary for Administration, (HUD).

ACTION: Notice of a Computer Matching Program between HUD and the Department of Education (ED).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Department of Education (ED) to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with ED's debtor files. This match will allow prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or ED direct or guaranteed loans.

Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records of ED and verify that the loan applicant is not in default or delinquent on direct

or guaranteed loans of participating Federal programs of either agency. Authorized users place a telephone call to the system. The system provides a recorded message followed by a series of instructions, one of which is a requirement for the SSN of the loan applicant. The system then reports audibly whether the SSN is related to delinquent or defaulted Federal obligations for HUD or ED direct or guaranteed loans. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

EFFECTIVE DATE: Computer matching is expected to begin July 19, 1995 and unless comments are received which will result in a contrary determination, will be accomplished 18 months from the beginning date.

FOR PRIVACY ACT INFORMATION CONTACT: Jeanette Smith, Departmental privacy Act Officer, Department of Housing and Urban Development, 451 7th St., SW, room 4178, Washington, DC 20410, telephone number (202) 708–2374. [This is not a toll-free telephone number.]

FOR FURTHER INFORMATION FROM RECIPIENT AGENCY CONTACT: Joseph McCloskey, Director, Control and Analysis Division, Department of Housing and Urban Development, 451 7th Street SW., room 2246, Washington, DC 20410, telephone number (202) 708–2438. [This is not a toll-free number.]

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: Adara Walton, Branch Chief, Student Receivables Division, Department of Education, Regional Office Building, 7th & D Streets SW, Washington, DC 20202, telephone number (202) 708–4766. [This is not a toll-free number.]

Reporting

In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;'' copies of this Notice and report, in duplicate, are being provided to the Committee on Governmental Affairs of the United States Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Management and Budget.

Authority

The matching program may be conducted pursuant to Pub. L. 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circulars A–129 (Managing Federal Credit Programs) and A–70 (Policies and Guidelines for Federal Credit Programs). One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circulars A–129 and A–70 were issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met by the matching program

The matching program will allow ED access to a system which permits prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to ED debtor data for prescreening purposes.

Records To Be Matched

HUD will utilize its system of records entitled HUD/DEPT–2, *Accounting Records.* The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have defaulted on Section 312 rehabilitation loans; or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRs match, HUD/DEPT–2, System of Records, receives its program inputs from HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans—Delinquent/Default.

ED will provide HUD with debtor files contained in its system of records. HUD is maintaining ED's records only as a ministerial action on behalf of ED, not as a part of HUD's HUD/DEPT–2 system of records. ED's data contain information on individuals who have defaulted on their guaranteed loans. ED will retain ownership and responsibility for their systems of records that they place with HUD. HUD serves only as a record location and routine use recipient for ED's data.

Notice Procedures

HUD and ED will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and ED will also publish notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

Categories of records/individuals involved

The debtor records include these data elements: SSN, claim number, ED Regional Office Code, Collection Agency Code, program code, and indication of indebtedness. Categories of records include: Record of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: Former mortgagors and purchasers of HUD-owned properties, manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 30 days from a date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination.

Issued at Washington, DC, June 13, 1995.

Marilynn A. Davis,

Assistant Secretary for Administration.

[FR Doc. 95–14929 Filed 6–16–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–05–1320–01; WYW136502]

Wyoming; Bridger Coal Co.; Exploration License

June 9, 1995.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Correction—Bridger Coal Co. Exploration License.

SUMMARY: This notice corrects an error in the legal description for a Notice of Invitation for Coal Exploration License WYW136502 previously published in the **Federal Register** June 2, 1995 (60 FR 28792). The legal land description is changed to read T. 20 N., R. 100 W., 6th P.M., Wyoming, instead of T. 40 N., R. 100 W., 6th P.M. The remainder of the Notice of Invitation remains unchanged.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 95–14641 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–22–P

[WY–920–05–1320–01; WYW136504]

Wyoming Cordero Coal Co.; Exploration License

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction—Cordero Coal Co. Exploration License.

SUMMARY: This notice corrects the Notice of Invitation for Coal Exploration License WYW136504 previously published in the **Federal Register** May 24, 1995 (60 FR 27546). That Notice of Invitation stated that a counterpart notice would be published in the News-Record of Gillette, WY, beginning no later than the week of May 22, 1995, and stated that any party electing to participate in the exploration program must send written notice to both the Bureau of Land Management (BLM) and the Cordero Mining Co. no later than thirty days after publication of the Notice of Invitation in the **Federal Register**. The first publication in the News-Record of Gillette did not occur before May 22, 1995, and will not occur until June 9, 1995; therefore, the Notice of Invitation is revised to state that written notice of any party electing to participate in the exploration program must be received by the BLM and Cordero Mining Co. no later than July 10, 1995. The remainder of the Notice of Invitation remains unchanged.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 95–14642 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–22–P

[WY–920–05–1320–01; WYW136559]

Wyoming; Invitation for Coal Exploration License

June 9, 1995.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of February 25, 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201 (b), and to the regulations adopted as Subpart 3410, Title 43, Code of Federal Regulations, all interested parties are hereby invited to participate with Kerr-McGee Coal Corp. on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United State of America in the following-described lands in Campbell County, WY:

T. 43 N., R. 70 W., 6th P.M., Wyoming,
Sec. 4: Lots 8, 9, 15–18;
Sec. 5: Lots 5–20;
Sec. 6: Lots 8–23;
Sec. 7: Lots 5–7, N2 of Lot 8, 9–12, N2 and SE of Lot 13, NE of Lot 19;
Sec. 8: Lots 1–16;
Sec. 9: Lots 3–6, 11–14;
T. 43 N., R. 71 W., 6th P.M., Wyoming;
Sec. 1: Lots 5–15, 19, SENE.

Containing approximately 3,395.515 acres.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to collect baseline data on the quality of the overburden and on the quality and quantity of groundwater.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW136559): Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper District Office, 1701 East 'E' Street, Casper, WY 82601.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in the *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of June 19, 1995, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Kerr-McGee Coal Corp. no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Kerr-McGee Coal Corp., Attn: John W. Coleman, MT–2205, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, and the Bureau of Land Management, Wyoming State Office, Home Base Chief, Minerals and Lands Authorization Group, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 95–14640 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–22–P

[CO–935–1430–01; COC34289]

Realty Action: Section 302 Lease; Classification in Grant County, Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action.

SUMMARY: In response to a request from the Silver Creek Ski Area, Colorado, the following public lands have been examined and found suitable for leasing under the provisions of Section 302, of the Federal Land Policy and Management Act (FLPMA) of 1976 and 43 CFR 2920. Adjacent lands are currently leased to Silver Creek Ski Area for ski trails and associated facilities.

Affected Public Lands

Sixth Principal Meridian, Colorado

T. 1N., R. 76 W.,
Sec. 17, S½SE¼.

Approximately 3 acres.

FOR FURTHER INFORMATION CONTACT: The environmental assessment and other information concerning this proposed lease is available for review by contacting Madeline Dzielak at the Kremmling Resource Area Office at 1116 Park Avenue, PO Box 68, Kremmling, Colorado 80459, (970) 724–3437.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws, including the mining laws, except for

conveyance under Section 302 of the Federal Land Policy and Management Act, for a period of two years from the date of publication of this notice. The segrative effect shall terminate upon issuance of a lease, upon rejection of the application, or two years from the date of publication of this notice.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: June 7, 1995.

Robert W. Schneider,

Associated District Manager.

[FR Doc. 95–14735 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–JB–M

[CO–010–1430–01; COC57864, COC58080]

Realty Action: Recreation and Public Purposes (R&PP) Act; Classification in Eagle County, Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action.

SUMMARY: In response to an application from the McCoy Wildcats (a ball team) (C–57864) and the McCoy Community Cemetery Association, (C–58080), McCoy, Colorado, the following public lands have been examined and found suitable for classification for lease and/or conveyance to those entities under the provisions of the Recreation and Public Purposes Act. A portion of the lands are currently occupied by the McCoy Community Cemetery.

Affected Public Lands

Sixth Principal Meridian, Colorado

T. 2 S., R. 83 W.,
Sec. 5, portions of Lots 19 and 20.

The affected public lands (6 acres) would be leased to the McCoy Wildcats for a 20-year period, with the option to renew the lease and the option to patent. Public lands (3.6145 acres) would be patented to the McCoy Community Cemetery Association, upon payment of 50% of the fair market value, as determined by appraisal.

FOR FURTHER INFORMATION CONTACT: The environmental assessment and other information concerning the proposed lease and/or conveyance is available for review by contacting Madeline Dzielak at the Kremmling Resource Area Office at 1116 Park Avenue, P.O. Box 68, Kremmling, Colorado 80459, (970) 724–3437.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws including the mining laws, except for conveyance under the Recreation and Public Purposes Act under Section 212 of the Federal Land Policy and Management Act, for a period of two years from the date of publication of this notice. The segregative effect shall terminate upon issuance of a lease and/or patent, upon rejection of the application, or two years from the date of publication of this notice.

The following reservations, terms and conditions will be made in a patent issued for the public lands included in the McCoy Community Cemetery:

1. A reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (43 U.S.C. 945).
2. Those rights for powerline purposes as have been granted to Yampa Valley Electric, it successors and assigns, by right-of-way Colorado 53546 under the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C.)
3. The provisions of the Recreation and Public Purposes Act amended and to all applicable regulations of the Secretary of the Interior.
4. No portion of the land covered by such patent shall under any circumstances revert to the Untied States.

For a period of 45 days from the date of publication of this notice, interested parties may submit comment to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Interested parties should indicated if they are commenting on the patent for the McCoy Community Cemetery or the lease for the McCoy Wildcats. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: June 8, 1995.

Robert W. Schneider,

Associated District Manager.

[FR Doc. 95–14734 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–JB–M

[MT–930–1430–01; MTM 83716]

Segregation of Parcel 1 Lands, Crow Boundary Settlement Act of 1994; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order segregates approximately 2,051 acres of public lands from surface entry and mining to facilitate completion of the requirements of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776).

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: John Kwiatkowski, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2914.

The purpose of Crow Boundary Settlement Act of 1994 was to settle the 107th Meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government.

1. Upon publication of this Notice of Segregation in the **Federal Register**, the following described lands will be segregated from surface entry and mining:

Principal Meridian, Montana

T. 6 S., R. 38 E.,
Sec. 24, lot 4;
Sec. 25, lot 1.
T. 7 S., R. 38 E.,
Sec. 25, lots 1 to 4, inclusive.
T. 9 S., R. 38 E.,
Sec. 13, lot 8;
Sec. 36, lots 1, 4, 5, and 8, SW¼NE¼, and W½SE¼.
T. 10 S., R. 38 E.,
Sec. 1, lot 7.
T. 7 S., R. 39 E.,
Sec. 30, lot 1;
Sec. 31, lots 3 and 4.

2. The following described lands will be segregated from mining:

T. 6 S., R. 38 E.,
Sec. 1, lots 1, 2, and 5, and SE¼SE¼;
Sec. 13, lots 2 and 3, SE¼NE¼ and E½SE¼;
Sec. 25, lots 2, 3, and 4.
T. 7 S., R. 38 E.,
Sec. 1, lots 1, 2, and 3;
Sec. 12, lots 1 to 4, inclusive, and E½E½.
T. 8 S., R. 38 E.,
Sec. 2, lots 1, 2, 6, 7, and 10, SE¼NE¼, and E½SE¼;
Sec. 11, lot 1, NE¼NE¼, and SE¼SE¼;
Sec. 13, E½NW¼;
Sec. 23, lots 4 and 5;
Sec. 25, N½NW¼, S½SW¼, NW¼NE¼, and SW¼SE¼.
T. 10 S., R. 38 E.,
Sec. 1, lot 1 and NW¼NE¼.
T. 6 S., R. 39 E.,
Sec. 6, lots 3 and 2;
Sec. 31, lot 4 and SE¼SW¼.
T. 7 S., R. 39 E.,

Sec. 6, SE¼NW¼ and NW¼SE¼;
Sec. 7, lot 1;
Sec. 18, NE¼NW¼ and NW¼NE¼;
Sec. 30, W½SE¼.

The segregative effect of this notice will terminate upon completion of the requirements of the Act. Notice of completion will be published in the **Federal Register**.

Dated: June 8, 1995.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 95–14913 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–DN–P

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants 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–803589

Applicant: Chicago Zoological Park, Brookfield, Illinois

Collection and retainment of live wood storks, *Mycteria americana*, rescued from abandoned colonies in Everglades National Park, for scientific purposes, educational purposes, and for the purposes of enhancement of propagation and survival of the species.

PRT–803587

Applicant: Burns and McDonnell, Inc., a consulting firm based in Kansas City, Missouri.

Perform population census work on the endangered American burying beetle, *Nicrophorus americanus*, for purposes of enhancement of survival of the species.

Written data or comments on any of these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 210, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications 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 following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 210, Atlanta, Georgia 30345 (Attn: Permit Coordinator). Telephone: 404/679–7110; Fax: 404/679–7280.

Dated: June 12, 1995.

Noreen K. Clough,

Regional Director

[FR Doc. 95–14868 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of an Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of the availability of an environmental assessment; request for comments.

SUMMARY: The purpose of this Notice is to make available to the public an environmental assessment regarding the release in the United States of three nonindigeneous insects *Galerucella calmariensis, Galerucella pusilla,* and Hylobius transversovittatus. The purpose of the release is to reduce and control *Lythrum salicaria* on Service-managed wetlands and to assist the States to reduce and control purple loosestrife on non-Service wetlands. These insects are not native to North America.

The Service proposes to release these three insect species on Service and other lands in the United States so they can contribute to the biological control of purple loosestrife (*Lythrum salicaria*), an introduced weed.

The primary reason for releasing these three insect species as a tool for purple loosestrife control is to lessen the negative environmental impacts caused by purple loosestrife infestations themselves and the methods used currently to control the week plant. The intended result of the proposed action is to cause positive environmental impacts.

DATES: Written comments on the Environmental Assessment should be received on or before July 12, 1995.

ADDRESSES: Comments regarding this Environmental Assessment should be addressed to Robert Schallenberger, Chief, Division of Refuges, U.S. Fish and Wildlife Service, 600 ARLSQ, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sean Furniss, Refuge Program Specialist, or Howard Schlegel, Forester, Division of Refuges, U.S. Fish and Wildlife Service, 600 ARLSQ, 1849 C Street NW., Washington, DC 20240 (703) 358–2043.

SUPPLEMENTARY INFORMATION: An Environmental Assessment (EA) was prepared that addressed three alternative actions for the Service's management of the introduced weed plant purple loosestrife (*Lythrum salicaria*). Purple Loosestrife has impacted North American wetland ecosystems by changing the structure, function, and productivity of the wetlands. The plant forms dense monoculture stands, sometimes thousands of acres in size, that displace native vegetation and threaten the biotic integrity of wetland ecosystems. The loss of plant species richness and diversity has eliminated natural foods and cover essential to many wetland wildlife species. This has altered the wetland habitat necessary to fulfill the purposes for which many wildlife refuges were established.

Conventional control methods are ineffective, costly, and require continuous long term maintenance. The release of the subject biological agents is intended to facilitate use of self-perpetuating biological controls. If the three insects in question become established, they would provide continuous control of the plant without further human actions. This would reduce current dependency on the rather non-effective and costly actions of mechanical methods, fire, water manipulations, and herbicide used to control loosestrife. If not reduced in volume and controlled, the plant will continue to expand and degrade wetlands nationwide by replacing native plant species in already stressed and declining wetland environments.

In addition to the proposed action, the Service also considered the alternative of continuing current management of the plant as well as the alternative of using two previously approved species of beetles for control of the purple loosestrife on Service lands. The selected alternative is the proposed action of releasing the three insects, in addition to the two previously approved species, to develop a continuous biological control of the plant.

Dated: June 14, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–14905 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Availability and Notice of Public Hearing on a Draft Environmental Impact Statement (DEIS)

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Fish and Wildlife Service has prepared a draft

environmental impact statement (DEIS) on the Rocky Mountain Arsenal National Wildlife Refuge Comprehensive Management Plan, Adams County, Colorado. The DEIS describes four alternatives for managing the Refuge, and discloses each alternative's environmental effects. A public hearing will be held to receive comments from interested agencies, organizations and individuals on the analysis contained in the DEIS.

DATES: Written comments concerning the analysis will be accepted August 3, 1995 at the address below.

A public meeting will be held on June 27, 1995 at 7 p.m. at the location indicated below.

ADDRESSES: Copies of the DEIS may be reviewed at the following locations:

Rocky Mountain Arsenal National Wildlife Refuge, Building 613, Commerce City, CO 80022–1748
Fish and Wildlife Service Regional Office, 134 Union Blvd, Lakewood, Colorado 80225
Denver Public Library-Central, 1357 Broadway, Denver, Colorado
Denver Public Library-Montbello, 12955 Albrook Drive, Denver, Colorado
Commerce City Public Library, 72nd and Monaco, Commerce City, Colorado
Public Meeting Red Lion Hotel, 3203 Quebec Street, Denver, CO 80207.

FOR FURTHER INFORMATION CONTACT: Dave Shaffer, Planning Coordinator, (303) 289–0232.

SUPPLEMENTARY INFORMATION: The Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402) establishes the Rocky Mountain Arsenal as a National Wildlife Refuge following environmental cleanup, and provided authority for the Fish and Wildlife Service to manage the area as if it were a National Wildlife Refuge during the cleanup process. Pursuant to the Department of Interior's Departmental Manual implementing the National Environmental Policy Act, the Fish and Wildlife Service is preparing a Comprehensive Management Plan for the Refuge and an Environmental Impact Statement on the Plan. The Plan will guide the development of the Rocky Mountain Arsenal National Wildlife Refuge. Ray Rauch, Project Leader, will be the responsible official. The Fish and Wildlife Service believes it is important to give reviewers notice at this early stage of guidance provided by several court rulings related to public participation in the environmental review process. Reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Judicial review may waive or dismiss objections that could have been raised at the draft environmental impact statement stage, but that were not raised until after completion of the final environmental impact statement.

Terry T. Terrell,

Acting Regional Director, Region 6, Denver, Colorado.

[FR Doc. 95–13624 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Missouri National Recreational River Advisory Group

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Missouri National Recreational River Advisory Group. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Wednesday, July 12, 1995; 2:00 p.m.

ADDRESS: Community Services Center, 605 8th Street, Springfield, South Dakota

Agenda topics include:

1. Discussion of the 39-mile planning team meeting held in Wagner, South Dakota on June 14 and 15, 1995.
2. The opportunity for public comment and proposed agenda, date, and time, of the next Advisory Group meeting.

The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

SUPPLEMENTARY INFORMATION: The Advisory Group was established by the law that established the Missouri National Recreational River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Recreational River. The Missouri National Recreational River is the 39-mile free flowing segment of the Missouri from Fort Randall Dam to the vicinity of Springfield in South Dakota.

FOR FURTHER INFORMATION CONTACT: Warren Hill, Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, 402–336–3970.

Dated: June 9, 1995.

William W. Schenk,

Field Director.

[FR Doc. 95–14940 Filed 6–16–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 523]

Railroad Cost of Capital—1994

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On June 16, 1995, the Commission served a decision to update its estimate of the railroad industry's cost of capital for 1994. The composite cost of capital rate for 1994 is found to be 12.2%, based on a current cost of debt of 7.9%, a cost of common equity capital of 13.8%, a cost of preferred equity capital of 4.6%, and a 23.9% debt, 74.3% common equity, 1.8% preferred equity capital structure mix. The cost of capital finding made in this proceeding will be used in a variety of Commission proceedings.

EFFECTIVE DATE: This action is effective June 16, 1995.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 927–6171. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision shall be used to evaluate the adequacy of railroad revenues for 1994 under the standards and procedures promulgated in *Standards for Railroad Revenue Adequacy*, 3 I.C.C.2d 261 (1986). This finding may also be used in other Commission proceedings such as the prescription of maximum reasonable rate levels and proposed abandonments of rail lines. Additional information is contained in the Commission's decision. To obtain a copy of the full decision,

write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue NW., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of this action are to update the annual railroad industry cost of capital finding by the Commission. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Authority: 49 U.S.C. 10704(a).

Decided: June 5, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–14896 Filed 6–16–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) the agency from number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and

(6) an indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of you intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) COPS Department Initial Report.

(2) COPS 012/01. Office of Community Oriented Policing Services, United States Department of Justice.

(3) Primary: State, Local or Tribal Government. Others: None. The COPS Department Initial Report will collect basic information from all COPS grant recipients concerning characteristics of their sworn workforce and community policing activities at the commencement of the COPS grant period for each recipient. The information collected will be used to establish a baseline for monitoring the progress of each recipient in implementing community policing with COPS funds.

(4) 8,100 annual respondents at 1.00 hours per response.

(5) 12,150.25 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14883 Filed 6–16–95; 8:45 am]

BILLING CODE 4410–21–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35 and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) the title of the form/collection;

(2) the agency for, number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and

(6) an indication as to whether Section 3504(h) of Pubic Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill, on (202) 395–740 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as son as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) COPS Officer Progress Report.

COPS 013/01. Office of Community Oriented Policing Services, United States Department of Justice.

(3) Primary: State, Local or Tribal Government. Other None. The COPS Officer Progress Report will be used to collect information concerning the basic characteristics and processional activities of each officer hired or rehired with COPS funds. COPS grant recipients will submit a COPS Officer Progress Report with COPS funds. COPS grant recipients will submit a COPS Officer Progress Report (for each officer hired or rehired) on a semiannual basis. The

information will be used to monitor the progress of recipients in implementing community policing.

(4) 8,100 annual respondents at 3.00 hours per response.

(5) 24,300 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14884 Filed 6–16–95; 8:45 am]

BILLING CODE 4410–21–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) the title of the form/collection;

(2) the agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and

(6) an indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application for Stay of Deportation.

(2) Form I–246. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Other: None. The information collection on this form will be used by the Immigration and Naturalization Service to determine the eligibility of the applicant for a stay of deportation.

(4) 2,500 annual respondents at .5 hours per response.

(5) 1,250 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this items is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14885 filed 6–16–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) the title of the form/collection;

(2) the agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and

(6) an indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB review and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Baggage and Personal Effects of Detained Aliens.

(2) Form I–43. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. This Form is used by the arresting officer to ensure that the alien is afforded a reasonable opportunity to collect his/her property. The Immigration and Naturalization Service also uses this form to protect the government from fraudulent claims.

(4) 600,000 annual respondents at .017 hours per response.

(5) 10,200 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14886 Filed 6–16–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) the title of the form/collection;

(2) the agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and

(6) an indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR. Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Registration for Classification As Refugee.

(2) Form I–590. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The Form I–590 provides a uniform methods for applicants to apply for refugee status an contains the information needed in order to adjudicate such applications.

(4) 150,000 annual respondents at .583 hours per response.

(5) 87,450 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14887 Filed 6–16–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35 and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) COPS Annual Department Report.

(2) COPS 011/01. Office of Community Oriented Policing Services, United States Department of Justice.

(3) Primary: State, Local or Tribal Government. Others: None. The COPS Annual Department Report will be collected annually to monitor the progress of COPS grant recipients in implementing community policing through the use of officers hired or rehired with COPS funds. The information collected will be used to ensure appropriate progress and identify grant recipients in need of additional training and technical assistance in implementing community policing.

(4) 8,100 annual respondents, at 3.00 hours per response.

(5) 24,300 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–14894 Filed 6–16–95; 8:45 am]

BILLING CODE 4410–21–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,085]

Blind Design, Inc., San Diego, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 30, 1995 in response to a worker petition which was filed on May 30, 1995 on behalf of workers at Blind Design, Incorporated, San Diego, California.

The petitioning group of workers had filed a petition for a company facility in Tempe, AZ (TA–W–31,084). After a conversation with one of the petitioners it was discovered that this is the only location that they intended to cover with the petition, not the company headquarters or plant in San Diego. Under the law, workers can only file for the location in which they worked. Further discussion with the company's Chief Financial Officer, revealed that the locations in San Diego did not produce the same product as the Tempe, AZ location. Furthermore, there have been no layoffs at either of the San Diego facilities to date. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of June, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–14925 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C., provided such request is filed in writing with the Director of OTAA not later than June 29, 1995.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than June 29, 1995.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 9th day of June, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received at governor's office	Petition No.	Articles produced
Boskovich Farms Inc.; Hemet & Perris (HMNAC).	Oxnard, CA	4/10/95	NAFTA–00427	Onion fields.
Stetson Cedar Products (Co.)	Forks, WA	4/10/95	NAFTA–00428	Red cedar shingles.
Black Box Corporation; Manufacturing Div. (Wkrs).	Pittsburg, PA	4/11/95	NAFTA–00429	Cables and switches.
Softhard Systems Inc. (Co.)	Houston, TX	4/13/95	NAFTA–00430	Computer hardware and software.
Superior Propane Inc.; Skelgas A.S. Inc. (Co.).	Oak Brook, IL	4/12/95	NAFTA–00431	Propane.
Names Inc. (Wkrs)	Allentown, PA	4/14/95	NAFTA–00432	Children's clothing.
Anchor Glass Containter (GMPW)	Zion, IL	4/14/95	NAFTA–00433	Glass containers.
Marconi Technologies Inc. (Wkrs)	Lancaster, PA	4/14/95	NAFTA–00434	Cable and wire harness assemblies.
Bowman Lease Service, Inc. (Co.)	Carrizo Springs, TX	4/17/95	NAFTA–00435	Machines.
Louisiana Pacific Corporation; Northern Div. (Co.).	Hayden Lake, ID	4/17/95	NAFTA–00436	Lumber products (i.e., veneer, joist, particle board, dimensional lumber products).
Dia-Netics, Inc.; Mocoil (Co.)	Marionville, MO	4/17/95	NAFTA–00437	Miniature electric coils for relay systems.
Superior Technologies, Inc.; Paris Texas Div. (IBEW).	Paris, TX	4/18/95	NAFTA–00438	Electrical waterbases and enclosures.
Scotty's Fashions; Lewistown Plant (ILGWU)	Lewistown, PA	4/19/95	NAFTA–00439	Ladies' jackets, vests, and slacks.
General Electric Company; Motors and Transformers Div. (IUE).	Fort Wayne, IN	4/18/95	NAFTA–00440	D.C. motors and transformers.
Laidlaw Corporation; Metropolis Plant (Wkrs)	Metropolis, IL	4/17/95	NAFTA–00441	Fly swatters.
Armstrong Pumps Inc. (Wkrs)	N. Tonawanda, NY	4/21/95	NAFTA–00442	Commercial pumps; pressure booster systems and sump and sewage.
Studley Products, Inc. (Co.)	Newark, NJ	4/26/95	NAFTA–00443	Bags (i.e., vacuum, lawn mower, and air pollution bags).
Hagger Clothing Co.; Robstown Mfg. Co. (Co.).	Robstown, TX	4/27/95	NAFTA–00444	Men's pants.
Harvard Industries; Elastic Stop Nut Div. (UAW).	Union, NJ	4/28/95	NAFTA–00445	Aerospace fasteners.
Quebecor Printing, Inc.; Buffalo (Wkrs)	Depew, NY	4/28/95	NAFTA–00446	Printed material.
Debmar Knitwear Ltd. (ILGWU)	Hauppage, NY	4/28/95	NAFTA–00447	Men's and women's sweaters.
American Standard Apparel Corp.; Kan-Trak-Ter Division (Wkrs).	Williamsport, PA	5/01/95	NAFTA–00448	Women's apparel.
Palliser Furniture; Assembly, Upholstery, Sewer (Wkrs).	Fargo, ND	5/01/95	NAFTA–00449	Leather upholstered chairs.

APPENDIX—Continued

Petitioner (Union/workers/firm)	Location	Date received at governor's office	Petition No.	Articles produced
Gist Brocades Food Inc. (Wkrs)	East Brunswick, NJ	5/01/95	NAFTA–00450	Compressed yeast.
FHF Apparel Corp.; of 500 Fashion Group (ACTW).	Miami, FL	5/04/95	NAFTA–00451	Men's suits and sportcoats.
Rogerson Aircraft Corp.; Rogerson Hiller/ Aerocomposites (Wkrs).	Port Angeles, WA	5/04/95	NAFTA–00452	Aerocomposites.
Big Sky Washington (Wkrs)	Tacoma, WA	5/04/95	NAFTA–00453	Sportswear.
Riley Stoker Corp.; Erie Plant (BMU)	Erie, PA	5/04/95	NAFTA–00454	Boilers.
ADA Block Company (Wkrs)	Ada, OK	5/05/95	NAFTA–00455	Blocks.
Noll Printing Inc.; Commercial Sales (GCIU)	Huntington, IN	5/08/95	NAFTA–00456	Commercial printing.
Lockheed; Fort Worth Div. (IAM)	Fort Worth, TX	5/01/95	NAFTA–00457	Wiring harnesses.
The Travelers (Wkrs)	Voorhees, NJ	5/15/95	NAFTA–00458	Medical claims.
Usher Products International, Inc. (Wkrs)	San Antonio, TX	5/15/95	NAFTA–00459	Candy.
Blind Design (Wkrs)	Tempe, AZ	5/15/95	NAFTA–00460	Mini blinds.
King Design Inc.; Production (Wkrs)	Eugene, WA	5/15/95	NAFTA–00461	Commercial interior graphic design products.
Robert Shaw Control Company; Grayson Div. (Co.).	El Paso, TX	5/17/95	NAFTA–00462	Control valve assemblies.
Ohio Edison Co.; W.H. Sammis Plant (UWUA).	Stratton, OH	5/18/95	NAFTA–00463	Electricity.
Penn Ventilator; Keyser Div. (SMWU)	Keyser, WV	5/18/95	NAFTA–00464	ATC, mechanical units, B-units.
Owens-Brockway Glass Container Corp.; Plant #28 (AFGWU).	Pomona, CA	5/18/95	NAFTA–00465	Glass containers.
AMSCO International (Co.)	Erie, PA	5/16/95	NAFTA–00466	Basil washing equipment.
Vernitron; VRN International (Wkrs)	St. Petersburg, FL	5/22/95	NAFTA–00467	Electronic components ie. trimmers.
Bear Cat Logging Inc.; Logging & Trucking (Wkrs).	Klamath Falls, OR	5/19/95	NAFTA–00468	Logs and timber.
Planergy New York Inc. (Wkrs)	East Syracuse, NY	5/23/95	NAFTA–00469	Electricity.
Seagull Energy Corporation; Mid Continent Region (Wkrs).	Amarillo, TX	5/23/95	NAFTA–00470	Oil and gas.
Tippens Apparel Trim, Inc. (Wkrs)	Conley, GA	5/24/95	NAFTA–00471	Apparel belts.
Chevron; West State Inc. (BOILERS)	Portland, OR	5/24/95	NAFTA–00472	Crude oil.
Pacific Lumber & Shipping Co.; (All Divisions) (CARPENTERS).	Seattle, WA	5/24/95	NAFTA–00473	Lumber.
Scout Trucking Company (Co.)	Spring City, PA	5/11/95	NAFTA–00474	Trucking.
Dante Fashions Inc. (ILGWU)	Jeannette, PA	5/24/95	NAFTA–00475	Women's skirts and slacks.
Esselte Pendaflex Corp. (GLIU)	Syracuse, NY	5/25/95	NAFTA–00476	Printed products (i.e., ledger sheets, columnar sheets, and columnar pads).
Crown Pacific L.P.; Colburn Unit (WOODWORK).	Sandpoint, ID	5/25/95	NAFTA–00477	Lumber.
Richs Products; Bakery Division (BC&T)	Dayton, OH	5/30/95	NAFTA–00478	Muffins.

[FR Doc. 95–14923 Filed 6–16–95; 8:45 am]
BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 1995.

In order for an affirmative determination to be made and a

certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,898; CPC Vending, Inc., Greenville, TX

TA–W–30,955; Trinity Industries, Brownsville, PA

TA–W–30,991; Paragon Trade Brands, Inc., City of Industry (LaPuente), CA

TA–W–30,882; Fisher & Porter Electronics, Vineland, NJ

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–30,936; Continental Airlines, Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,975; Halliburton, Midland, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,982; Linea Aeropostal Venezolana, Miami, FL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,974; Tidewater Compression Service, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,951; Interkal, Inc., Kalamazoo, MI

The predominate reason for the layoff of workers at Interkal, Inc., Kalamazoo, MI was a corporate decision to move one of the subject firms product lines (Platform seating) to a new affiliated facility in Greensville, SC.

TA–W–30,978; Scout Trucking Co., Spring City, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,897; Stewart Warner Instrument Corp., El Paso, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–30,889; Decorp, Inc., Carrollton, TX

A certification was issued covering all workers separated on or after March 24, 1994.

TA–W–30,921; Forbo Industries, Inc., Hazleton, PA

A certification was issued covering all workers separated on or after April 17, 1994.

TA–W–30,903; Ullenberg Corp., Chattanooga, TN

A certification was issued covering all workers separated on or after March 23, 1994.

TA–W–30,969; Cooper Industries, Inc., Cooper Power Systems Div., Coraopolis, PA

A certification was issued covering all workers separated on or after April 17, 1994.

TA–W–31,028; Zwickel, Inc., (including workers Leased from Out Staff), Philadelphia, PA

A certification was issued covering all workers separated on or after April 24, 1994.

TA–W–31,060; Norcross Footwear, Inc., Nashua, NH

A certification was issued covering all workers separated on or after May 10, 1994.

TA–W–30,947; Brown Shoe Co., Jeff Vander-Lou Plant, St. Louis, MO

A certification was issued covering all workers separated on or after April 11, 1994.

TA–W–30,880; GE Power Systems, Schenectady, NY

A certification was issued covering all workers separated on or after November 19, 1993.

TA–W–30,968; Superior Technology, Inc., Paris, TX

A certification was issued covering all workers separated on or after April 12, 1994.

TA–W–30,869; Ochoco Lumber Co., Prineville, OR

A certification was issued covering all workers separated on or after March 15, 1994.

TA–W–31,013; Marie Coats & Suite, Inc., Clifton, NJ

A certification was issued covering all workers separated on or after December 21, 1993.

TA–W–30,925 & A; Collegeville Engineering, Zionsville, PA and Norristown, PA

A certification was issued covering all workers separated on or after April 3, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of May, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm of subdivision; or

(2) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

NAFTA–TAA–00429; Black Box Corp., Lawrence, PA

The investigation revealed that criteria (3) and (4) were not met. There was no shift in production from Black Box Corp, Lawrence, PA to Mexico or Canada during the period under investigation, nor did the subject firm import from Mexico or Canada any articles that are like or directly competitive with computer supplies.

NAFTA–TAA–00432; Names, Inc., Allentown, PA

The investigation revealed that criteria (3) and (4) were not met. Survey results revealed that customers did not import a significant proportion of children's clothing from Mexico or Canada.

NAFTA–TAA–00438; Superior Technology, Inc., Paris, TX

The investigation revealed that criteria (3) and (4) were not met. The subject firm reduced imports from Canada of articles that are like or directly competitive with electrical meter sockets.

NAFTA–TAA–00329; Swift Adhesives (Reichold Chemical, Inc.) St. Joseph, MO

The investigation revealed that criteria (3) and (4) were not met. The investigation findings showed that customers imports from Canada or Mexico did not have a negative impact on the subject firm during the periods under investigation.

NAFTA–TAA–00431; Skelgas Propane, Inc., Skelgas A.S., Inc, Oak Brook, IL

The investigation revealed that the workers of Skelgas Propane, Inc., Skelgas A.S., Inc., Oak Brook, IL do not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–00323; LaVelle Powder Co., Inc., Butte, MT

The investigation revealed that the workers of LaVelle Powder Co., Inc., Butte, MT do not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00430; Softhard Systems, Inc., Houston, TX

A certification was issued covering all workers at Softhard Systems, Inc., Houston TX separated on or after April 13, 1994.

NAFTA–TAA–00434; Marconi Technologies, Inc., Lancaster, PA

A certification was issued covering all workers at Marconi Technologies, Inc., Lancaster, PA separated on or after April 14 1994.

NAFTA–TAA–00433 & A; Anchor Glass Container Corp., Gurnee, IL and Huntington Park, CA

A certification was issued covering all workers at Anchor Glass Container Corp., Gurnee, IL and Huntington Park, CA separated on or after March 31, 1994.

NAFTA–TAA–00388; West Pac Cedar Products, Inc., Humptulips, WA

A certification was issued covering all workers at West Pac Cedar Products, Inc., Humptulips, WA separated on or after March 9, 1994.

NAFTA–TAA–00411; Anchor Hocking Packaging Co., Closure Div., Glassboro, NJ

A certification was issued covering all workers at Anchor Hocking Packaging Co., Closure Div., Glassboro, NJ separated on or after March 20, 1994.

NAFTA–TAA–00407; Summit Timber Co., Darrington, WA

A certification was issued covering all workers at Summit Timber Co., Darrington, WA separated on or after March 23, 1994.

NAFTA–TAA–00439 & A; Scotty's Fashions, Lewistown, PA and Kresgeville Manufacturing, Inc., Kresgeville, PA

A certification was issued covering all workers at Scotty's Fashions, Lewistown, PA and Kresgeville Manufacturing, Inc., Kresgeville, PA separated on or after April 19, 1994.

NAFTA–TAA–00437; Dia-Netics, Mocoil Div., Marionville, MO

A certification was issued covering all workers at Dia-Netics, Mocoil Div., Marionville, MO separated on or after April 17, 1994.

NAFTA–TAA–00436; Louisiana Pacific, Northern Div., Hayden Lake, ID & Operating at Following Other Locations: A; Belgrade, MY, B; Chilco, ID, C; Deerlodge, MT, D; Libby, MT, E; Moyie Springs, ID, F; Pilot Rock, OR, G; Priest River, ID, H; Rexburg, ID, I; Saratoga, WY, J; Tacoma, WA, K; Walden, Co, L; Walla Walla, WA.

A certification was issued covering all workers at the above mentioned locations, who became separated on or after April 12, 1994.

I hereby certify that the aforementioned determinations were issued during the month of May, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 26, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–14926 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,889]

Decorp, Inc., A/K/A Kellwood Co., Carrollton, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on May 18, 1995, applicable to all workers of DeCorp, Incorporated, located in Carrollton, Texas. The notice will soon be published in the **Federal Register**.

New information received from the company shows that some of the workers at DeCorp, Incorporated had their unemployment insurance (UI) taxes paid to Kellwood Company.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of DeCorp, Incorporated who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,889 is hereby issued as follows:

''All workers of DeCorp, Incorporated, a/k/a Kellwood Company, Carrollton, Texas who became totally or partially separated from employment on or after March 24, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 1st day of June 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–14928 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31, 045]

Engraph Label Group, Patton Division, Moorestown, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 22, 1995 in response to a worker petition which was filed on May 22, 1995 on behalf of workers at Engraph Label Group, Patton Division, Moorestown, NJ.

The petitioning group of workers had filed a petition for another facility in Delran, NJ (TA–W–31,044). After a conversation with one of the petitioners it was discovered that the Delran, NJ facility is the only location they intended to cover with the petition, not the company headquarters or plant in Moorestown, NJ. Under the law,

workers can only file a petition for the location in which they worked. Further discussion with James Searcy, the Vice-President of Finance and Administration, revealed that the plant in Moorestown did not produce the same product as the Delran facility, nor had there been any recent layoffs at the Moorestown facilities. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 7th day of June, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–14924 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W-30,878]

Russell-Newman, Inc., A/K/A Russell-Newman Manufacturing, Stamford, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on May 4, 1995, applicable to all workers of Russell-Newman, Inc., Stamford, Texas. The notice was published in the **Federal Register** on May 17, 1995 (60 FR 26459).

New information received from the State Agency shows that some of the workers at Russell-Newman, Inc., had their unemployment insurance (UI) taxes paid to Russell-Newman Manufacturing.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Russell-Newman, Inc., who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,878 is hereby issued as follows:

''All workers of Russell-Newman, Inc., a/k/a Russell-Newman Manufacturing, Stamford, Texas who became totally or partially separated from employment on or after March 17, 1994 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 1st day of June 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–14927 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Connecticut State Standards, Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR part 1902. On November 3, 1978, notice was published in the **Federal Register** (43 FR 51390) of the approval of the Connecticut Public Sector State Plan and the adoption of Subpart E to part 1956 containing the decision.

The Connecticut Public Sector only State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing an intent to amend the State Plan by adopting the standard(s) in the Connecticut Law Journal.

b. Approval by the Commissioner of Labor and the Attorney General of the State of Connecticut.

c. Approval by the Legislative Regulation Review Committee, State of Connecticut.

d. Filing in the Office of the Secretary of State, State of Connecticut.

e. Publishing a notice that the State Plan is amended by adopting the standard(s) in the Connecticut Law Journal.

The Connecticut Public Sector State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6, of the Act.

By letter dated April 28, 1995, from Commissioner John E. Saunders, III, Connecticut Department of Labor, to John T. Phillips, Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1904, 1910, 1915, 1917, 1918, 1926 and 1928, and subsequent amendments thereto, as described below:

(1) Addition to 29 CFR parts 1910, 1915, 1917, 1918, 1926, and 1928, Retention of DOT Markings, Placards, and Labels; Final Rule (59 FR 36695, dated 7/19/94). This standard became effective on January 19, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

(2) Addition to 29 CFR part 1904, Reporting of Fatality or Multiple Hospitalization Incidents; Final Rule (59 FR 15594, dated April 1, 1995). This standard became effective on January 19, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

(3) Addition to 29 CFR parts 1910 and 1926, Safety Standards for Fall Protection in the Construction Industry; Final Rule (59 FR 40730, dated August 9, 1994). This standard became effective on February 23, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

(4) Addition to 29 CFR parts 1910, 1915, and 1926, Occupational Exposure to Asbestos; Final Rule and Corrections (59 FR 40964, dated 8/10/94, and 60 FR 11194, dated 3/1/95). This standard became effective on February 23, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

(5) Addition to 29 CFR part 1915, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment; Final Rule and Corrections (59 FR 37816, dated 7/25/94, and 60 FR 14218, dated 3/16/95). This standard became effective on February 23, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

(6) Addition to 29 CFR parts 1910 and 1928, Logging Operations; Final Rule (59 FR 51672, dated 10/12/94). This standard became effective on April 19, 1995, pursuant to Section 31–372 of the Connecticut General Statutes.

2. Decision

OSHA has determined that the State's standards for Retention of DOT Markings, Placards, and Labels, Reporting of Fatality or Multiple Hospitalization Incidents, Safety Standards for Fall Protection in the Construction Industry, Occupational Exposure to Asbestos, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment, and Logging Operations are identical to the comparable Federal standards, and therefore approves these standards.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts, 02114; Office of the Commissioner, State of Connecticut, Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, and the OSHA Office of State Programs, Room N–3476, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut Public Sector Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective on June 19, 1995.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 11th day of May 1995.

John T. Phillips,

Regional Administrator.

[FR Doc. 95–14931 Filed 6–16–95; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (95–041)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Modern Machine and Tool Co., Inc., of Newport News, Virginia, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 08/XXX,XXX, entitled ''Six Component Force Balance Calibration System'', which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to Modern Machine and Tool Co., Inc., should be sent to Ms. Kimberly A. Chasteen, Patent Attorney, NASA Langley Research Center.

DATES: Reponses to this Notice must be received by August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, NASA Langley Research Center, Mail Code 212, Hampton, Virginia 23681–0001; (804) 864–3227.

Dated: June 12, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–14865 Filed 8–16–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CAPITAL PLANNING COMMISSION

Intent To Hold Public Meeting

AGENCY: National Capital Planning Commission.

ACTION: Proposed construction and operation of a sports and entertainment arena in Washington, DC.; Notice of public meeting.

SUMMARY: In a Notice dated May 15, 1995 (60 FR 25930), the National Capital Planning Commission stated its intention to prepare an Environmental Impact Statement (EIS) for the proposed construction and operation of a new sports and entertainment arena in Washington, DC, pursuant to Section 106(2)(c) of the National Environmental Policy Act of 1969 (NEPA) as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and in accordance with Environmental Policies and Procedures implemented by the Commission. A Draft EIS was published on June 9, 1995.

The Commission has determined that it would be appropriate to hold a public meeting prior to the issuance of a final EIS. The public meeting will be held on Monday, July 17, 1995 at the DC Convention Center, at 900 9th Street NW., Room 10. Adequate signs will be posted to direct meeting participants. Representatives of the National Capital Planning Commission and District of Columbia Government will be available from 5 to 7 p.m. to discuss specific concerns. At 7 p.m. a short formal presentation will precede the public comments. It is important that Federal, regional, and local agencies, and other interested individuals and groups take this opportunity to respond to the concerns set out in the draft EIS. Anyone who wants to speak will be heard and anyone who so desires may sign up in advance by calling (202) 724–0174 or in person at the hearing. Speakers will be heard in the order of signing up. In the interest of time, each speaker will be asked to limit oral comments to five (5) minutes.

As noted in the **Federal Register** of June 16, 1995, copies of the draft EIS are available for inspection at the National Capital Planning Commission at 801 Pennsylvania Avenue NW., Suite 301 and Suite 1130 of One Judiciary Square at 441 4th Street, NW. As also noted, written comments on the Draft EIS must be postmarked by July 31, 1995 and sent to the National Capital Planning Commission.

FOR FURTHER INFORMATION CONTACT: National Capital Planning Commission, 801 Pennsylvania Avenue, NW., Suite 301, Washington, DC 20576. Attention: Ms. Sandra H. Shapiro, General Counsel, Phone: (202) 724–0174.

Sandra H. Shapiro,

General Counsel, National Capital Planning Commission.

[FR Doc. 95–14875 Filed 6–16–95; 8:45 am]

BILLING CODE 7502–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Art and the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisos of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended,

including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* July 12, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room 430.
Program: This meeting will review proposals submitted to the May 1, 1995 deadline in the Office of Challenge Grants, for projects beginning after December 1995.

2. *Date:* July 12, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room 415.
Program: This meeting will review applications submitted to Humanities Projects in Museums and Historical Organizations program, for projects beginning after June 2, 1995.

3. *Date:* July 11, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room 315.
Program: This meeting will review Fellowships for University Teachers applications in British Literature; Rhetoric; and Composition, submitted to the Division of Research Division, for projects beginning after January 1, 1996.

4. *Date:* July 14, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room 430.
Program: This meeting will review proposals submitted to the May 1, 1995 deadline in the office of Challenge Grants, for projects beginning after December 1995.

5. *Date:* July 17, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room 415.
Program: This meeting will review Fellowships for College Teachers applications in European History, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

6. *Date:* July 18, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Comparative Literature; Germanic, Slavic, and Asian Languages and Literatures; and Linguistics, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

7. *Date:* July 18, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This combines Fellowships for University Teachers and Fellowships for College Teachers meeting will review applications in Art History I, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

8. *Date:* July 18, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review proposals submitted to the May 1, 1995 deadline in the Office of Challenge Grants Programs, for projects beginning after December 1995.

9. *Date:* July 24, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers application in American History and Studies I, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

10. *Date:* July 24–25, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted to the Humanities Projects in Museums and Historical Organizations programs, submitted to the Division of Public Programs, for projects beginning after January 1, 1996.

11. *Date:* July 25, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers application in Music, Dance, Theater & Film History and Criticism, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

12. *Date:* July 26, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers applications in Music, Theater and Film, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

13. *Date:* July 27–28, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted to the Humanities Projects in Museums and Historical programs, submitted to the Division of Public Programs, for projects beginning after January 1, 1996.

14. *Date:* July 28, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in American History I, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

15. *Date:* July 31, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in Sociology, Psychology, and Education, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

16. *Date:* July 31, 1995.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review proposals submitted to the May 1, 1995 deadline in the Office of Challenge Grants Program, for projects beginning after December 1995.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 95–14888 Filed 6–16–95; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Arts in Education Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Partnership Advisory Panel (Arts in Education Section) to the National Council on the Arts will be held on June 28, 1995 from 10:30 a.m. to 1:30 p.m. This meeting will be held in Room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 10:30 a.m. to 11 a.m. for welcome and introductions and from 1 p.m. to 1:30 p.m. for a policy discussion.

The remaining portion of this meeting from 11 a.m. to 1 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994 this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5788.

Dated: June 13, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–19421 Filed 6–16–95; 8:45 am]

BILLING CODE 7537–01–M

Dance Advisory Meeting: Dance Company Grants Sections A&B

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Company Grants Sections A & B) to the National Council on the Arts will be held on July 10–14, 1995. Panel A will meet on July 10–13, from 9:00 a.m. to 8:00 p.m. and Panel B will meet from 9:00 a.m. to 6:00 p.m. on July 14. This meeting will be held in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 9:00 a.m. to 1:00 p.m. July 14 for a policy discussion.

The remaining portions of this meeting from 9:00 a.m. to 8:00 p.m. on July 10–13 and from 2:00 p.m. to 6:00 p.m. on July 14 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5788.

Dated: June 13, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–14922 Filed 6–16–95; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Investigator Financial Disclosure Policy

AGENCY: National Science Foundation.

ACTION: Delay of effective date.

SUMMARY: The National Science Foundation (NSF) is delaying the effective date of its final Investigator Financial Disclosure Policy (58 FR 33308) from June 28, 1995 to October 1, 1995. This change is necessary to maintain consistency with the Department of Health and Human Services' rule on the subject which will have an effective date of October 1, 1995.

EFFECTIVE DATE: The effective date of the NSF's final Investigator Financial Disclosure Policy is October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Christopher L. Ashley, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230 (703) 306–1060.

SUPPLEMENTARY INFORMATION: Paperwork Reduction Act Control Number 3145–0149.

On June 28, 1994, NSF published in the Federal Register a final Policy announcing revised award conditions relating to investigator financial disclosure. Those revised conditions require grantee institutions to maintain written and enforced policies on investigator conflict of interest. 59 FR 33308 (June 28, 1994).

NSF has been coordinating its Investigator Financial Disclosure Policy with the Public Health Service and the Office of the Secretary of the Department of Health and Human Services (HHS). At the same time NSF published its final Policy, HHS published a notice of proposed rulemaking also dealing with investigator conflicts. HHS received and reviewed public comments on that proposed rule and has not yet issued its final rule. To maintain consistency with HHS' rule and its anticipated effective date, NSF is now changing the effective date of its Investigator Financial Disclosure Policy to October 1, 1995.

Dated: June 13, 1995.

Lawrence Rudolph,

General Counsel.

[FR Doc. 95–14855 Filed 6–16–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Policy Statement, ''Integrated Schedules''.

3. The form number if applicable: Not applicable.

4. How often the collection is required: For those licensees who volunteer to participate, a one-time submittal of the integrated schedule program and the integrated schedule, and periodic updates of the integrated schedule.

5. Who will be required or asked to report: Nuclear Power Reactor Licensees.

6. An estimate of the number of responses: 43.

7. An estimate of the total number of hours required annually to complete the requirement or request: 2,400 hours (300 hours per each of eight licensees). In addition, there is a one-time burden of 900 hours (300 hours per each of 3 licensees) for submittal of the initial integrated schedule program.

8. An indication of whether Section 3504(h), P.L. 96–511 applies: Not applicable.

9. Abstract: The policy statement regarding the development of integrated schedules encourages, but does not require, licensees to develop integrated schedules. Those licensees who participate in this voluntary program will develop and submit an integrated schedule program, including prioritization methodology, an

integrated schedule, and periodic schedule updates. NRC uses the reported information to ensure that licensees are establishing realistic and timely implementation schedules.

Copies of the submittals may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555–0001.

Comments and questions should be directed to the OMB Reviewer: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0168), NEOB–10202, Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 12th day of June 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–14877 Filed 6–16–95; 8:45 am]

BILLING CODE 7590–01–M

Licensing Support System Advisory Review Panel

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Licensing Support System Advisory Review Panel (LSSARP) will hold its next meeting on July 6–7, 1995, in the Huron Room, Radisson Inn Green Bay, 2040 Airport Drive, Green Bay, Wisconsin. The meeting will be open to the pubic pursuant to the Federal Advisory Committee Act (Pub. L. 94–463. 86 Stat. 770–776).

AGENDA: The meeting will be held from 8:30 a.m. to 5:00 p.m. on Thursday, July 6, and from 9:00 a.m. to Noon, as needed, on Friday, July 7, 1995. The following agenda is planned:

1. LSS Administrator's Activity Report
   a. Status of NRC Senior Management Team's Review of LSS
   b. Update on Pilot Project Topic and Plan
   c. Status of Draft Initial NRC/DOE Memorandum of Understanding
   d. Participant Compliance Guidance
2. DOE Activity Report
   a. Application of Exclusion/Inclusion Criteria and Progress on Loading Existing Documents into Document Management System
   b. Update on DOE Issue Tracking and Decision Document Retrieval
   c. Electronic Capturing vs Scanning
3. Report of Technical Working Group on Review of LSS Level II Functional Requirements
4. Future Meeting Topics and Schedule

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) established the LSSARP in 1989 to provide advice and recommendations to the NRC and to the Department of Energy (DOE concerning the design, development and operation of an electronic information management system, known as the Licensing Support System (LSS), which will contain information relevant to the Commission's future licensing proceeding for a geologic repository for the disposal of high-level radioactive waste. Membership on the Panel consists of representatives of the State and Local Governments of Nevada, the National Congress of American Indians, the nuclear industry, DOE, NRC and other agencies of the Federal government which have experience with large electronic information management systems.

FOR FURTHER INFORMATION CONTACT: John C. Hoyle, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: telephone 301–415–1969.

PUBLIC PARTICIPATION: Interested persons may make oral presentations to the panel or file written statements. Requests for oral presentations should be made to the contact person listed above as far in advance as practicable so that appropriate arrangements can be made.

Dated: June 13, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–14882 Filed 6–16–95; 8:45 am]

BILLING CODE 7590–01–M

NRC/Nuclear Energy Institute Public Workshop on Reactor Pressure Vessel Integrity Issues

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission is holding a public workshop to discuss issues impacting nuclear reactor vessel integrity. The agenda includes three principal subjects: (1) Reactor pressure vessel integrity; (2) pressure vessel annealing to recover toughness lost through neutron radiation; and (3) the operational transient known as pressurized thermal shock. Presentations will be made by representatives of the NRC and the Nuclear Industry. The NRC plans to have copies of the speakers' visual aids available for attendees. The meeting will be open to the public; comments and questions from the audience will be recognized.

DATES: The workshop will be held on July 11 through 13, 1995. Time on 07/11, 8:30 a.m.–5 p.m.; 07/12, 9 a.m.–5 p.m.; and 07/13, 9 a.m.–12:00 a.m.

ADDRESSES: The meeting will be held at NRC Headquarters Auditorium at Two White Flint North, 11545 Rockville Pike, North Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard E. Johnson, U.S. NRC, Mail Stop: T–10 E 10, Washington, DC 20555, (301–415–6758)

Mr. Kurt Cozens, Nuclear Energy Institute, 1176 Eye Street, NW, Washington, DC 20006–3706, (202–739–8085)

Dated at Rockville, Maryland, this 13th day of June 1995.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–14878 Filed 6–16–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–32827 License No. 13–24866–02 EA 94–240 IA 95–015 IA 95–016]

Midwest Testing, Inc. Indianapolis, Indiana, Mr. William G. Kimbley and Ms. Joan Kimbley; Confirmatory Order

I

Midwest Testing, Inc. (Licensee) is holder of NRC License No. 13–24866–02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The License authorized the Licensee to possess and use cesium-137 and americium-241 as sealed sources in moisture/density gauges. The License was issued on August 19, 1992, and is being terminated by Amendment No. 1, which is being issued on the date of this Order.

II

On July 27, 1993, a routine inspection of licensed activities was conducted at Midwest Testing, Inc. (Licensee) by NRC Region III. During the inspection the inspector identified that licensee management had allowed workers to operate moisture density gauges without personnel monitoring devices (film badges) and that required leak tests of the gauges had not been performed.

The NRC Office of Investigations (OI) conducted an investigation to determine

whether willful violations of NRC requirements had occurred. Based on the NRC inspection and OI investigation, it appears that Mr. William G. Kimbley, owner of Midwest Testing, deliberately violated NRC requirements by:

(1) Allowing operators to use moisture density gauges without personnel monitoring devices between December 24, 1991, and August 25, 1993, in violation of Condition 18.A of License No. 13–24866–01 (expired on March 31, 1992) and Condition 20.A of License No. 13–24866–02 (issued on August 19, 1992);

(2) Not performing leak tests of two moisture density gauges between August 19, 1992, and July 31, 1993, in violation of Condition 13.A of License No. 13–24866–02;

(3) Not requesting a license amendment to name a new Radiation Protection Officer, in violation of Condition 11 of License No. 13–24866–02, when the individual named on the License left Midwest Testing in October 1993;

(4) Storing licensed material at an unauthorized location since March 1994 in violation of Condition 10 of License No. 13–24866–02 and 10 CFR 30.34(c); and

(5) Allowing moisture density gauges to be used between April 1, 1992, and August 19, 1992, with an expired license in violation of 10 CFR 30.3 and 10 CFR 30.36(c)(1) (i) and (iii).

In addition, it appears that Ms. Joan Kimbley, General Manager and Treasurer of Midwest Testing, Inc., deliberately violated Items (1), (2), and (5) above. These actions appear to have been a result of Midwest Testing, Inc. financial constraints, inexperience of the General Manager and, in general, a lack of appreciation on the part of the Owner and the General Manager of the regulatory significance and consequences of the violations.

A Confirmatory Action Letter was issued to the Licensee on March 21, 1994, confirming that the Licensee would secure its moisture density gauges in locked storage until the Licensee: (1) Designated a Radiation Protection Officer, (2) obtained NRC approval via a license amendment for its designated Radiation Protection Officer and its current moisture density gauge storage location, (3) demonstrated that all its moisture density gauges were appropriately tested for leakage, and (4) demonstrated that personnel radiation monitoring devices were provided for those persons designated to use moisture density gauges. The Licensee did not use its moisture density gauges after issuance of the Confirmatory Action Letter.

Subsequently, an Order Suspending License (Effective Immediately) was issued to the Licensee on August 26, 1994, for nonpayment of fees, which required: (1) The Licensee to suspend NRC licensed activities and dispose of its licensed material; and (2) NRC termination of License No. 13–24866–02 following disposal of the licensed material. The Licensee disposed of its licensed material in December 1994. NRC Region III verified that the licensed material was properly transferred to authorized recipients.

III

A transcribed enforcement conference was conducted between the NRC and the Licensee on March 15, 1995, to discuss the apparent violations, their causes and safety significance. Mr. Kimbley stated during the enforcement conference, ''And the question about would we ever pursue an NRC license again, the answer to that is no. If there is any way I can give you assurance of that, I'll be glad to do that.'' Ms. Kimbley stated during the Enforcement Conference, ''Like we stated earlier, we don't intend to continue with any licensed material in the future.''

Further, in a telephone conversation on May 2, 1995, with Mr. Paul Pelke, NRC Region III, Mr. and Ms. Kimbley agreed to the provisions and to the issuance of this Order to resolve all matters pending between them. Specifically, Mr. Kimbley agreed, for a period of five years from the date he signs this Confirmatory Order, that Mr. Kimbley, Midwest Testing, Inc., or any successor entity wherein Mr. Kimbley is an authorized user, radiation safety officer, owner, an officer, or a controlling stockholder, will not apply to the NRC for a new license, nor shall Mr. Kimbley, Midwest Testing, Inc., or a successor entity, as described above, engage in licensed activities within the jurisdiction of the NRC for that same period of time. Ms. Kimbley agreed, for a period of five years from the date she signs this Confirmatory Order, that Ms. Kimbley, Midwest Testing, Inc., or any successor entity wherein Ms. Kimbley is an authorized user, radiation safety officer, owner, an officer, or a controlling stockholder, will not apply to the NRC for a new license, nor shall Ms. Kimbley, Midwest Testing, Inc., or a successor entity, as described above, engage in licensed activities within the jurisdiction of the NRC for the same period of time.

I find that the Licensee's commitments as stated in the May 2, 1995 conversation with Paul Pelke, NRC Region III, are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order.

IV

Accordingly, pursuant to sections 81, 161b, 161i, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR part 30, it is hereby ordered that:

1. For a period of five years from the date Mr. William G. Kimbley signs this Confirmatory Order, Mr. Kimbley, Midwest Testing, Inc., or any successor entity wherein Mr. Kimbley is an authorized user, radiation safety officer, owner, an officer, or a controlling stockholder will not apply to the NRC for a new license, nor shall Mr. Kimbley, Midwest Testing, Inc., or a successor entity, as described above, engage in licensed activities within the jurisdiction of the NRC for that same period of time.

2. For a period of five years from the date Ms. Joan Kimbley signs this Confirmatory Order, Ms. Kimbley, Midwest Testing, Inc., or any successor entity wherein Ms. Kimbley is an authorized user, radiation safety officer, owner, an officer, or a controlling stockholder, will not apply to the NRC for a new license, nor shall Ms. Kimbley, Midwest Testing, Inc., or a successor entity, as described above, engage in licensed activities within the jurisdiction of the NRC for that same period of time.

3. Mr. Kimbley, Ms. Kimbley, Midwest Testing, Inc., or any successor entity, as described above, waive the right to contest this Order in any manner, including requesting a hearing on this Order.

The Regional Administrator, NRC Region III, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee, Mr. William G. Kimbley, or Ms. Joan Kimbley of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, Mr. William G. Kimbley, and Ms. Joan Kimbley may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of

Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

This Order was consented to:
For the Licensee, William G. Kimbley, and Joan Kimbley
By: William G. Kimbley,
Dated: June 2, 1995.
By: Joan Kimbley.
Dated: June 2, 1995.

For the Nuclear Regulatory Commission.
Order Dated: June 12, 1995, Rockville, Maryland.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 95–14876 Filed 6–16–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

National Information Infrastructure; Draft Report on ''NII Security: The Federal Role''

AGENCY: Office of Management and Budget.

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The NII Security Issues Forum of the Information Infrastructure Task Force (IITF) has released for public comment a draft report, ''NII Security: The Federal Role.'' Security in the National Information Infrastructure, or NII, consists of the confidentiality, integrity, reliability, and availability of information and communications services. This report is being released in order to develop a consensus of the appropriate Federal role in NII security through a public dialogue. Specifically, this report summarizes the Forum's findings concerning security needs in the NII; presents an analysis of the institutional, legal, and technical issues surrounding security of the NII; and proposes Federal actions to address these issues.

DATES: Comments must be submitted no later than September 18, 1995.

ADDRESSES: Electronic copies of the report may be obtained through the IITF bulletin board at iitf.doc.gov through both the Internet and the World-Wide Web. Dial-up access by modem is also available at 202–482–1920. Modem communications parameters should be set at no parity, 8 data bits, and one stop (N, 8, 1). Hard copies of the report may be obtained by contacting the Information Policy and Technology Branch of the Office of Management and Budget at (202) 395–3785. Comments must be submitted to the Office of Management and Budget, NEOB 10236, Washington, DC 20503, to the attention of Virginia Huth, or to huth__v@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: Virginia Huth, Office of Management and Budget, (202) 395–3785 or huth__v@a.eop.gov.

SUPPLEMENTARY INFORMATION: To articulate and implement the Administration's vision for the National Information Infrastructure (NII), the Vice President formed the Information Infrastructure Task Force (IITF), chaired by Secretary of Commerce Ron Brown. The NII Security Issues Forum was established within the IITF to address the important cross-cutting issue of security in the NII. In addition to the IITF, the President has established the U.S. Advisory Council on the National Information Infrastructure, which includes representatives from industry, labor, State and local governments, and public interest groups.

Security is critical to the development and operation of a viable National Information Infrastructure. Without the confidence that information will go where and when it is supposed to go, and nowhere else, the NII will not be used to support health, education, commerce, public services, and advanced communications to the fullest extent.

To better understand what will be needed to make the NII adequately secure, the NII Security Issues Forum and members of the U.S. Advisory Council on the NII held seven public meetings with government officials and members of the private and public interest sectors to discuss the security needs of the NII. In order to continue and expand this public dialogue, the draft report, ''NII Security: The Federal Role,'' is being issued for public comment. Although members of the U.S. Advisory Council cosponsored the meetings and numerous representatives from the private sector participated in the meetings, this draft report is solely the product of the NII Security Issues Forum, a Federal government organization.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 95–14900 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–60–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21129; 812–9562]

First Trust Special Situations Trust, Series 69

June 12, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: First Trust Special Situations Trust, Series 69.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of itself and certain subsequent series (collectively, the ''Series'') to permit each Series to invest up to twenty percent of its total assets in securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on March 31, 1995 and amended on June 8, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1995 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549.

Applicant, c/o Nike Securities, L.P., 1001 Warrenville Road, Lisle, Illinois 60532.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Nike Securities, L.P. is applicant's depositor (the ''Sponsor''). Each Series will invest approximately 20%, but in no event more than 20.5%,[1] of the value of its total assets in each of the five lowest dollar price per share stocks of the ten common stocks in the Dow Jones Industrial Average (''DJIA'') having the highest dividend yields no more than two business days prior to the States' initial date of deposit, and hold those stocks for approximately one year.

2. The DJIA comprises 30 common stocks chosen by the editors of The Wall Street Journal. The DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with any Series or the Sponsor and does not participate in any way in the creation of any Series or the selection of its stocks.

3. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor is authorized to determine the date of deposit, to purchase securities for deposit in the Series, and to supervise each Series' portfolio. The Sponsor will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

4. During the 90-day period following the initial date of deposit, the Sponsor may deposit additional securities while maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Deposits made after this 90-day period must replicate exactly (subject to certain limited exceptions) the proportionate relationship among the face amounts of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the five lowest price per share stocks of the ten highest dividend yielding stocks.

5. The Series' portfolios will not be actively managed. Sales of portfolio securities will be made in connection with redemptions of units issued by a Series and at termination of the Series. The Sponsor has no discretion as to when securities will be sold except that it is authorized to sell securities in extremely limited circumstances, such as a public tender, merger or acquisition affecting the security, a default in the payment of a declared dividend or other outstanding obligation, any action or proceeding restraining the payment of dividends, any legal question or impediment affecting the security, a breach by the issuer of a covenant which would affect the payment of a dividend, circumstances which would impair the investment character of the security, a decrease in the price of the security or other credit factors so that in the opinion of the Sponsor, the retention of the securities would be detrimental to the Series. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act, with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act exempts the purchase of securities of an issuer that derived more than fifteen percent of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the issuer. Notwithstanding the above, rule 12d3–1 prohibits any registered investment company from acquiring any security issued by the company's investment adviser, promoter, or principal underwriter or any affiliated person of such investment adviser, promoter, or principal underwriter that is a securities related business, with certain limited exceptions.

2. Applicant requests an exemption under section 6(c) from section 12(d)(3) to permit a Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of its total assets in securities of an issuer that derives more than fifteen percent of its gross revenues from securities related activities.

3. Section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant believes that this concern does not arise in connection with its application because neither applicant nor the Sponsor has discretion in choosing the portfolio securities or amount purchased. The security must first be included in the DJIA, which is unaffiliated with the Sponsor and applicant, and must also qualify as one of the five lowest dollar price per share stocks of the ten highest dividend yielding stocks.

4. Applicant also believes that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minimis.* Applicant asserts that the common stocks of securities related issuers represented in the DJIA are widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. Accordingly, applicant believes that it is highly unlikely that purchases of these securities by a Series would have any significant impact on the securities' market value.

5. Another potential conflict of interest could occur if an investment company directed the brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in the portfolio of a Series nor any affiliate thereof will act as a broker for any Series in the purchase or sale of any security for its portfolio. In light of the above, applicant believes that its

[1] The Sponsor will attempt to purchase equal values of each of the five common stocks in a Series' portfolio. However, it is more efficient if securities are purchased in 100 share lots and 50 share lots. As a result, applicant may choose to purchase securities of a securities related issuer which represent over 20%, but in no event more than 20.5% percent, of a Series' assets on the initial date of deposit to the extent necessary to enable the Sponsor to meet its purchase requirements and to obtain the best price for the securities.

proposal meets the section 6(c) standards.

Condition

Applicant agrees that the requested exemptive order may be conditioned upon no company held in the Series' portfolio, nor any affiliate thereof, acting as broker for any Series in the purchase or sale of any security for the Series' portfolio.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–14849 Filed 6–16–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 95–23; Notice 2]

Decision That Nonconforming 1992 Kenworth T800 Trucks Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1992 Kenworth T800 trucks are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 Kenworth T800 trucks not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1992 Kenworth T800), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective June 19, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer R–90–007) petitioned NHTSA to decide whether 1992 Kenworth T800 trucks are eligible for importation into the United States. NHTSA published notice of the petition on April 7, 1995 (60 FR 17846) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–115 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 Kenworth T800 truck not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Kenworth T800 truck originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 14, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–14903 Filed 6–16–95; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Customs Service

Implementation of Automated Export System

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

ACTION: Notice of Implementation of Phase I of the Automated Export System (AES).

SUMMARY: This notice announces that beginning on July 3, 1995, the U.S. Customs Service with the assistance of the Bureau of the Census will implement the first phase of AES and also announces to the public where the AES system will be implemented.

BACKGROUND: AES will ultimately provide a single electronic gateway at Customs through which the exporting community can report and receive all information required by U.S. government agencies involved with export administration. AES will create a ''one-stop'' environment for the trade community to file export information. It will substantially reduce paperwork and eliminate duplicate reporting requirements resulting in decreased respondent burden. AES will facilitate export trade, and improve customer service, trade statistics, and outbound enforcement.

Phase I of AES is for vessel shipments only and only for voluntary participants. Additional implementation phases of AES will be announced in future notices.

Phase I of AES will be implemented in the ports of Baltimore, Maryland; Norfolk, Virginia; Charleston, South Carolina; Houston, Texas (including Galveston and Texas City); and Los Angeles-Long Beach, California.

SECTORS AFFECTED: Parties that may volunteer to participate in Phase I of AES include; exporters, freight forwarders, carriers, customhouse brokers, port authorities, and service bureaus.

RESPONSIBILITIES OF PARTICIPANTS: Exporters, or their agents, will be responsible for providing primary

commodity related data, while carriers will be responsible for providing primary transportation related data. These two segments of AES data, commodity and transportation, provide the details needed to complete the export transaction reporting requirements.

During the initial implementation of Phase I of AES, exporters, or their agents, and carriers will be required to continue to report export information under current regulatory requirements using the Shipper's Export Declaration or the Automated Export Reporting Program in addition to reporting export information to AES. This dual reporting period for AES participants is not expected to last past December 31, 1995. The length of the dual reporting period may be adjusted pending the outcome of the evaluation of Phase I of AES. The dual reporting requirement only applies to the export activities of the voluntary participants within the above specified ports. Following this dual reporting period, AES will be extended to other vessel ports to be announced.

DATA CONTROLS: Certain data contained in AES will fall under the purview of the Freedom of Information Act as well as the Privacy Act.

CONTACTS: For information regarding AES, please contact the AES Development Team at (202) 927–0280 or your local Customs Client Representative. To obtain reference or background material, please call the AES MarketFax at (202) 927–3555, extension 100-main menu. To obtain information about AES from a specified port location, please call the following listed phone numbers:

Baltimore	(410) 962–4483
Norfolk	(804) 543–2033
Charleston	(803) 881–4312
Houston (via Galveston Office)	(409) 766–3624
Los Angeles-Long Beach	(310) 514–6015

Dated: June 13, 1995.

Ray Mackin,

Acting Director, AES Development Team.

[FR Doc. 95–14829 Filed 6–16–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Information Collections Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Trish Fineran, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6886.

Comments and recommendations concerning the proposed information collections should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer on or before July 19, 1995.

Dated: June 9, 1995.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

Extension of a Currently Approved Collection

1. Federal Fiduciary's Account, VA Form 27–4706b.
2. The form is used by Federal fiduciaries who are required to account to VA for benefits paid to them on behalf of a beneficiary rated incompetent or under legal disability. The accounting information is used by Veterans Benefits Administration to complete account audits.
3. Individuals or households—Business or other for profit—Not-for-profit institutions—Federal Government—State, Local or Tribal Government.
4. 4,370 hours.
5. 30 minutes.
6. Annually.
7. 8,740 respondents.

Extension of a Currently Approved Collection

1. Fiduciary's Agreement, VA Form 27–4703.
2. The form outlines the responsibilities of the fiduciary with respect to the use of VA funds. When completed by Veterans Benefits Administration and signed by the Federal fiduciary, it constitutes a legally binding contract.
3. Individuals or households—Business or other for-profit—Not-for-profit institutions—Federal Government—State, Local or Tribal Government.
4. 1,390 hours.
5. 5 minutes.
6. One-time.
7. 16,676 respondents.

[FR Doc. 95–14854 Filed 6–16–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 117

Monday, June 19, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 60 Fed. Reg. 30682 June 9, 1995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 P.M. (Eastern Time) June 20, 1995.

CHANGE IN THE MEETING:

Closed Session

The closed session of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: June 15, 1995.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 95–15026 Filed 6–15–95; 11:33 am]

BILLING CODE 6750–06–M

DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

DATE AND TIME: Tuesday, June 27, 1995, 2:00 p.m.

PLACE: 10220 North Executive Hills Blvd., North Pointe Tower, Suite 700, Kansas City, Missouri 64153.

STATUS: Closed meeting.

MATTERS CONSIDERED:

The following matters will be considered during the closed portion of the Commission's Business Meeting:

(1) Appeals to the Commission involving approximately 19 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

(2) Adoption of the Witness Security Manual.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: June 14, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–15091 Filed 6–15–95; 3:26 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE
UNITED STATES PAROLE COMMISSION

TIME AND DATE: 9 a.m., Wednesday, June 28, 1995.

PLACE: 10220 North Executive Hills Blvd., North Pointe Tower, Suite 700, Kansas City, Missouri 64153.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Proposal for Change in Regulation, Chapter Two, Subchapter B, Section 212 Assault.
4. Discussion on the Realignment of states.
5. Discussion on Commissioners Serving as Hearing Examiners.
6. Proposal for Parole Date Advancement for Substance Abuse Program Completion.
7. Proposal for Revising the Fraud Guidelines.
8. Proposal for Revising the Salient Factor Score.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: June 14, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–15090 Filed 6–15–95; 3:26 pm]

BILLING CODE 4410–01–M

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING NOTICE

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on June 24–25, 1995. The meeting will commence at 1 p.m. on June 24, and at 9 a.m. on June 25.

PLACE: Legal Services Corporation, 750 1st Street, NE., Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board may discuss matters related to internal personnel policies. In addition, the Board may hear and consider the General Counsel's report on litigation in which the Corporation is or may become a party. Finally, the Board may be briefed by the Inspector General on Office of the Inspector General Activities.[1] The closing will be authorized by the relevant sections of the Government in the Sunshine Act (5 U.S.C. Section 552b(c)(2) and (10)), and the corresponding regulation of the Legal Services Corporation (45 C.F.R. Section 1622.5 (a) and (h)). The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Announcement of Approval, By Notational Vote, of the Management Report Prepared in Response to the Inspector General's Semiannual Report for the Period Ending March 31, 1995.
3. Approval of Minutes of May 12–13, 1995 Meeting.
4. Approval of Minutes of April 28, 1995 Meeting.
5. Approval of Minutes of May 12, 1995 Ad Hoc Structure on Governance Committee Meeting.
6. Approval of Minutes of May 12, 1995 Executive Session.
7. Approval of Minutes of April 28, 1995 Executive Session.
8. Chairman's and Members' Reports.
9. Consider and Act on Proposed Resolution Authorizing the Corporation President to Serve as a Temporary Administrator of the Duke Estate.
10. President's Report on Status of Appropriations and Authorization Proceedings.
11. Report and Discussion of Planning for the Future of Legal Services.
12. Inspector General's Report.
13. Consider and Act on Finance Committee Report.
14. Report on Allocation of 1995 Contingency Funds.
15. Public Comment.
16. Consider and Act on Proposed Resolution Regarding Structure of Legal Services Delivery System.
17. Consider and Act on Proposed Resolution Regarding Competitive Grants Making.
18. Consider and Act on Proposed Resolution Regarding Grantee Timekeeping Requirements.

[1] Briefings do not constitute ''meetings'' as defined by the Government in the Sunshine Act. Notice of this briefing is being provided solely as a courtesy to the public.

19. Consider and Act on Proposed Resolution Regarding Class Action Litigation.
20. Consider and Act on Proposed Resolution Regarding Cases Involving Drug-Related Evictions.

Closed Session

21. Discussion of Issues Relating to Internal Personnel Policies.
22. Briefing of Board by the Inspector General on Office of the Inspector General Activities.
23. Consider and Act on the General Counsel's Report on Litigation.

Open Session (Resumed)

24. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Dated Issued: June 15, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–15080 Filed 6–15–95; 2:31 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS FINANCE COMMITTEE MEETING NOTICE

TIME AND DATE: The Legal Services Corporation Board of Directors Finance Committee (formerly referred to as the ''Audit and Appropriations Committee'') will meet on June 23, 1995. The meeting will commence at 3:00 p.m.

PLACE: Legal Services Corporation, 750 1st Street, N.E., the Board Room, Washington, D.C. 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of May 12, 1995 Meeting.
3. Consideration and Review of Budget and Expenses for the Period Ending May 31, 1995.
4. Consider and Act on Proposed Revisions to the Corporation's Fiscal Year 1995 Consolidated Operating Budget.
5. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date issued: June 15, 1995.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 95–15081 Filed 6–15–95; 2:31 pm]

BILLING CODE 7050–01–M

Nuclear Regulatory Commission

DATE: Thursday, June 22, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Thursday, June 22

9:00 a.m.
Briefing on Results of Senior Management Review of Operating Reactors, Fuel Facilities, and Related Activities (Public Meeting)
(Contact: Victor McCree, 301–415–1711)

10:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
(Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting.)
a. Final Rule on ''Clarification of Decommissioning Funding Assurance Requirements'' (Tentative)
b. Final Rule Revising 10 CFR Part 110, Import and Export of Radioactive Waste (Tentative)
c. Georgia Power Company's Motion for Order Preserving the Licensing Board's Jurisdiction (Docket Nos. 50–424–OLA–3, 50–425–OLA–3) (Tentative)
d. Final Rulemaking Package for 10 CFR 50.36, ''Technical Specifications'' (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill, (301) 415–1661.

Dated: June 14, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–15046 Filed 6–15–95; 2:29 pm]

BILLING CODE 7590–01–M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1477)

TIME AND DATE: 9 a.m. (EDT), June 21, 1995.

PLACE: TVA West Tower Plaza, Conference Room 404, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on May 24, 1995.

Action Items

New Business

C—Energy

C1. Supplements to Watts Bar Nuclear Plant labor and services contracts as follows: Contract No. 91NNP–44970C with Raytheon Constructors, Inc.; Contract No. TV–82466V with Raytheon Engineers and Constructors, Inc., Ebasco Division; Contract Nos. TV–85775V and TV–73035A with Stone & Webster Engineering Corporation; Contract No. TV–85432V with Performance Controls Company; Contract No. TV–86567V with United Energy Services Corporation; Contract No. TV–83455V with General Physics Corporation; Contract No. TV–83216V with BCP Technical Services, Inc., and Contract No. TV–92003V with Cataract Incorporated.

C2. Contract with NPS Energy Services, Inc., for modifications and supplemental maintenance support services for Fossil and Hydro Power, subject to final negotiations and review prior to execution.

C3. Supplement to Contract No. TV–87640V with CDI Corporation to provide temporary professional and technical support services to the Fossil and Hydro Power staff on an as-needed basis.

E—Real Property

E1. Public auction of Bowling Green Steam Plant Railroad right-of-way (Tract Nos. BGST–1, 2KTSP–1C, –1D, –1E, –1F, –1G, –1H, –1I, –1J, and –1K), located in Warren County, Kentucky.

E2. Public auction of Tupelo, Mississippi, Customer Service Center property (Tract Nos. XTPCSC–3 and –4), located in Lee County, Mississippi.

E3. Grant of permanent easement to The McCrory Company, Shiloh Falls Development, for a community golf course development and acquisition of 2.47 acres of land and a conservation easement (Sale Tract No. XPR–445RE; Acquisition Tract No. PR–2354), located on Pickwick Lake, Hardin County, Tennessee.

E4. Sufferance Agreement with Mr. and Mrs. Kenneth Wright affecting 0.007 acre of Boone Lake land in Washington County, Tennessee (Tract No. BR–69F). This agreement would allow a private residence to remain in its present location below the 1390-foot contour so long as it is not enlarged, extended, or otherwise altered.

F—Unclassified

F1. Filing of condemnation cases.

Information Items

1. Modifications to TVA's Transmission Service Guidelines and delegation of authority to make additional modifications to the guidelines.

FOR MORE INFORMATION: Please call TVA Public Relations at (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: June 14, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–15025 Filed 6–15–95; 11:32 am]

BILLING CODE 8120–08–M

Federal Register

Monday
June 19, 1995

Part II

Department of Health and Human Services

Administration for Children and Families

Developmental Disabilities; Availability of Financial Assistance for Projects of National Significance for Fiscal Year 1995; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

(Program Announcement No. 93631–95–02)

Developmental Disabilities: Availability of Financial Assistance for Projects of National Significance for Fiscal Year 1995

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Announcement of availability of financial assistance for Projects of National Significance for fiscal year 1995.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that applications are being accepted for funding of Fiscal Year 1995 Projects of National Significance.

This program announcement consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD. Part II provides the necessary background information on ADD for applicants. Part III describes the review process. Part IV describes the priorities under which ADD solicits applications for Fiscal Year 1995 funding of projects. Part V describes in detail how to prepare and submit an application. All of the forms and instructions necessary to submit an application are published as part of this announcement following Part V.

No separate application kit is either necessary or available for submitting an application. If you have a copy of this announcement, you have all the information and forms required to submit an application.

Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

DATES: The closing date for submittal of applications under this announcement is August 3, 1995.

ADDRESSES: Applications should be mailed to: Department of Health and Human Services, ACF/Division of Discretionary Grants, Sixth Floor, 370 L'Enfant Promenade SW, Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Hand-delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street, SW, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Adele Gorelick, Program Development Division, Administration on Developmental Disabilities, (202) 690–5982.

SUPPLEMENTARY INFORMATION:

Part I. Introduction

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific populations it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, persons with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.
- A community-based approach that recognizes and expands on the resources and benefits of diversity.

Emphasis on these goals and progress toward them will help more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of persons with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000, *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families; The Act further finds that:
- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for people with developmental disabilities to be employed, and to live

conventional and independent lives as a part of families and communities.

• Toward these ends, ADD seeks to enhance the capabilities of families in assisting people with developmental disabilities to achieve their maximum potential to support the increasing ability of people with developmental disabilities to exercise greater choice and self-determination; to engage in leadership activities in their communities; as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

• Federal assistance to State developmental disabilities councils;

• State system for the protection and advocacy of individual rights;

• Grants to University Affiliated Programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and

• Grants for Projects of National Significance.

Part II. Background Information

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

• Data collection and analysis;

• Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and

• Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;

—Educating policy makers;

—Federal interagency initiatives;

—The enhancement of participation of minority and ethnic groups in public and private sector initiatives in developmental disabilities;

—Transition of youth with developmental disabilities from school to adult life; and

—Special pilots and evaluation studies to explore the expansion of programs under part B (State developmental disabilities councils) to individuals with severe disabilities other than developmental disabilities.

B. Comments on FY 1995 Proposed Priority Areas

The notice soliciting comments on the FY 1995 proposed priority areas was published in the **Federal Register** on January 11, 1995 (60 FR 2760). A 60-day period was required to allow the public to comment on the proposed areas. After review and analysis of these comments, ADD is publishing its final priorities in this announcement.

The public comment notice requested specific comments and suggestions on the proposed funding priorities, in addition to recommendations for additional priority areas which would assist in bringing about the increased independence, productivity, and integration into the community of people with developmental disabilities.

ADD received a total of 62 letters and 193 inquiries by the closing date in response to the public comment notice. Commentary was from the following sources:

• Advocacy agencies, which includes national organizations and associations, national advocacy groups and State/local advocacy groups;

• Service organizations, which includes agencies that provide services for individuals with developmental disabilities as well as providing advocacy services on behalf of a particular disability, including developmental disabilities councils;

• Educational systems, which includes schools, colleges, and universities, programs located within a university setting and University Affiliated Programs;

• Private agencies, which includes national, State, and local nonprofit organizations;

• Government agencies, which includes Federal, State, county, and local government agencies;

• Private individuals; and

• Foundations.

The comments ranged from requests for copies of the final application solicitation to general support to substantive, insightful responses for this year's proposed funding priorities and recommendations for other priority areas. The vast majority were supportive of and expanded upon what we proposed in the announcement, in addition to relating specifically to the program goals and priorities of the particular agencies submitting the comments.

The comments received were helpful in highlighting the concerns of the developmental disabilities field and have been used in refining the final priority areas.

Comment: Six letters were submitted to ADD recommending additional funding priorities for FY 1995. Suggestions included projects addressing the need for accessible and inclusive programs within the developmental disabilities network; the needs of aging persons with developmental disabilities and their families, especially those in rural areas; the need for research and training on Abusive Head Trauma, which includes Shaken Baby Syndrome; and transportation needs related to accessing jobs and services. There was a recommendation for priority areas for potential grantees to propose their own issues and for small, grassroots organizations to have the opportunity to develop their own solutions in their local communities.

Response: ADD continues to press for accessible and inclusive programs and project products. Through funding criteria, site visits, and monitoring of reports this principle is conveyed and its implementation evaluated.

ADD has funded projects related to aging in the past and continues to support projects and activities in this area through the University Affiliated Program. We share concerns that were expressed about the aging of individuals with developmental disabilities, which is reflected in our mission to promote the independence, productivity, integration, and inclusion of all people with developmental disabilities in their communities.

ADD will consult with the Administration on Aging and others to identify the need and opportunity for future focused efforts in this area.

We welcome the sharing of information with regard to medical conditions having implications for projects addressing abuse, violence, the need for early assessments and intervention, and family-centered approaches. The specifics regarding Abusive Head Trauma, Shaken Baby Syndrome, and Failure-to-Thrive will be included in appropriate priority areas.

ADD sees the element of transportation as a crucial factor in the success of any program. In stressing outcome-oriented approaches and ongoing mechanisms for evaluation and identification of barriers, ADD will include transportation concerns.

ADD is committed to inclusion and input from advocates and grassroots efforts. It has funded projects to strengthen families through national and grassroots strategies, partnerships in policymaking, and People First self-advocacy. Future priority areas will include opportunities for design options and local community initiatives.

ADD appreciates the suggestions for additional priority areas. With the

proposed fiscal year 1995 priority areas we have developed our most extensive array of project possibilities and will make concentrated efforts to support effective work in these areas. The suggestions have been considered significant and have been incorporated where appropriate.

Comment: ADD received 8 comments on Proposed Priority Area 1, Collaboration Between Youth Service Providers and Disabilities Advocates to Enhance Services to Youth With Developmental Disabilities. There was strong support for collaborative efforts, including memoranda of understanding and fiscal participation, and a recommendation to expand the scope of this priority area. Suggestions included language regarding information sharing and networking efforts that include all stakeholders, the identification of barriers, and the development of materials and strategies and the resources of technology and assistive devices.

One comment urged inclusion of the capability to address and correct the breakdown in the school-to-work transition process and another stressed the importance of completing school as imperative for employment.

A comment from one State was that there was only minuscule risk in that particular State of youth with developmental disabilities running away or becoming involved with delinquent behavior.

Response: ADD is committed to collaborative efforts whenever possible, with or without fiscal participation, and we feel the focus of this priority area is appropriate at this time. It builds on the Family and Youth Services Bureau efforts with respect to at-risk youth and expands to include ADD's concerns. Prevention of and response to these issues will in fact necessitate a holistic approach.

Both agencies regard employment as a major goal, which must be addressed much earlier in the school experience than has been done, as well as attention to the principles of the Americans with Disabilities Act. The comments on project criteria contributed an appreciated refinement of announcement language.

As for the numbers of youth at risk, ADD feels strongly that such youth with developmental disabilities are particularly vulnerable and inadequately served. It is therefore essential that we explore and devise models which hold more promise for these young people.

Comment: ADD received 14 comments on Proposed Priority Area 2, Americans With Developmental Disabilities and the Criminal Justice System. The comments received in this priority area were supportive of what ADD proposed in the published notice. There was strong support for programs to institute ongoing training for law enforcement and court personnel and to address prevention strategies as well. Involving self-advocates was strongly urged as essential, with projects directed by self-advocates and conducted by and through organizations of self-advocates in collaboration with the developmental disabilities network. One comment noted that this area would not impact a large segment of the population of the writer's State.

It was also suggested that there be a component emphasizing the need for mental health services to children in the criminal justice system. Other comments recommended funding for the transition from incarceration to the community, the inclusion of legal and safety concerns during enforcement, training with respect to impaired judgment resulting from fetal alcohol syndrome, and a study of the factors contributing to delinquency.

Response: ADD is committed to supporting leadership and direction by self-advocates, whose experience and perspective will ensure effective projects, a major goal along with ongoing and replicable projects. The specific concerns regarding mental health and transition to the community will clearly be identified in a required analysis of barriers to effective programs and desirable outcomes. ADD hopes to address these components in future PNS projects.

Medical issues should be an element of any proposed project so that justice system personnel are aware of symptoms and of indications of abuse and violence as well as substance abuse. As for the suggested numbers of individuals who may be impacted by the issues of this priority area in a particular State, ADD reiterates its commitment to the vulnerable individuals with developmental disabilities and to the inadequately served among them.

Comment: ADD received 11 comments on Proposed Priority Area 3, First Jobs—Introducing Young Persons With/Without Developmental Disabilities to the World of Work and Community Service. There was strong support for moving from segregated work settings to supported employment programs and a comment urging that individuals with the most severe disabilities who have not benefitted from supported employment not be ignored and remain unserved. There was support for ADD's approach with regard to its Americorps projects, which include individuals with and without disabilities, and for collaboration among nonprofit agencies, Head Start, Vocational Rehabilitation, the Job Training Partnership Act Program (JTPA), and other public resources. Meaningful vocational assessments and a focus on consumer choice and quality of life were stressed, as was the importance of planning and partnerships so that first jobs lead to second jobs and ultimate career paths. One commenter had concerns about the Jobs Opportunities and Basic Skills (JOBS) program and training for JOBS staff unaccustomed to working with individuals with developmental disabilities, about the necessary long-term investment, and about funding for modifications to automated systems.

Comments from individuals involved concerns regarding personal assistance services. There was also a suggestion that this priority area be combined with the priority area for youth at risk for running away who need access to supports and services which lead to independence. Another suggestion was that people with developmental disabilities receive training to be personal assistants.

Response: ADD is in agreement with the movement toward a cultural shift to recognition of abilities and choice and away from control of employment resources by providers of employment and vocational services. We feel the community as a whole benefits from inclusion of individuals with developmental disabilities in the workplace. The benefits of diversity are seen in supported employment, which includes the development of natural supports reflecting participation of all co-workers.

Collaborative linkages are also critical as we strive to expand access to earlier educational/vocational experiences for children and youth with disabilities. Maximum efforts should be made to assure that individuals with the most severe disabilities are afforded these essential opportunities. Consideration of assistive technology, transportation needs, and accommodations for personal assistance services are essential components.

While there is some overlap with the issues addressed in Priority Area 1, ADD intends to fund each of these areas with their particular foci and demonstrate its commitment to contributions to the community that individuals with developmental disabilities make. ADD would consider, however, funding projects which effectively address essential requirements of both areas.

Comment: ADD received 18 comments on Proposed Priority Area 4, Child Care and Early Intervention: Linkages for Successful Inclusion of Young Children With Disabilities. All were supportive and many offered recommendations for project design or additional components. There were suggestions for including effective advocacy strategies and protection of ADA rights, for addressing the needs of children with severe disabilities, for training on the condition of nonorganic failure to thrive as well as the sequelae of Shaken Baby Syndrome and Abusive Head Trauma, for prevention of secondary disabilities, and for broadening the priority to include life-span services and ''seamless'' interagency collaboration.

There were also recommendations for inclusion of training for staff in after-school programs, assistive technology, and systems conversion. Because of high staff turnover there is a need for ongoing program support, possibly through mentorship, and there is good opportunity for young adults with disabilities to work as educational aides.

There were requests that preference be given to projects addressing the needs of families with low income or living in poverty, migrant families, and homeless families, with a specific suggestion that the Early Prevention, Screening, Diagnosis and Treatment Program be utilized.

There were several comments urging attention to multicultural issues and the need for early intervention with respect to children with developmental disabilities at risk for delinquent behavior. Also suggested was establishment of a national task force to assist states and local communities in implementing policies and services and combining this priority area with Children at Risk: The Impact of Abuse and Violence on Children with Disabilities.

Response: ADD was pleased to see the point made that the experience of inclusion has benefits for children with and without disabilities. The community benefits of diversity are an ongoing focus of ADD. We are also committed to the development of tools and strategies for the implementation of the ADA for all children, with focused attention on those who have been unserved and inadequately served, such as individuals with severe disabilities, families with low income or living in poverty, migrant or homeless families, those living in rural areas, and immigrant and refugee families.

We appreciate the information and suggestions regarding failure to thrive, Shaken Baby Syndrome and Abusive Head Trauma, and prevention concerns, which will be incorporated in appropriate priority areas, as well as attention to after-school personnel and the implementation of assistive technology. We have introduced the collaboration of individuals with and without disabilities in projects with the Family and Youth Services Bureau and our Americorps projects.

ADD will fund separate projects under the youth service providers and disabilities advocates and abuse and violence priority areas. As for a focus on multicultural issues, ADD includes this requirement in the design of all projects and will have a major funding priority area (Priority 5) addressing the development of models for technical assistance.

Comment: ADD received 15 comments on Proposed Priority Area 5. All but one agreed with the need for this proposed priority and many offered recommendations on the design and operation of projects, while others had concerns about sufficient funding and the need for ongoing projects in a multicultural network.

There was agreement that it is time for innovative approaches to identifying areas of need and developing action strategies to meet those needs. Advocacy groups hoped to be included when the various components are collaborating. Nationwide technical assistance within the developmental disabilities network was recommended to implement programs for training service coordinators from culturally diverse backgrounds to guide individuals with developmental disabilities and their families. It was suggested that coalition building and recruitment and retention efforts outside the network depend on the achievement of cultural competence within the network. The dissenting commenter felt that the Commissioner has already begun to build this network and these issues should not be in a separate priority area.

Another commenter felt that if the goal is to provide agency-integrated, comprehensive services to families, the multicultural theme should be a strong, clearly developed part of each project. Another suggestion with regard to this issue proposed a state project targeted for demonstrating model practices for further development of collaboration among the network components.

There was also commentary on including all ages, including young adults, middle aged, and older parents of aging individuals with developmental disabilities in multicultural communities, and on the need for training in self-advocacy and empowerment to address effective actions for overcoming identified barriers.

Response: The issue of building a strong, effective multicultural network within the developmental disabilities system is a major concern of ADD. The Commissioner's Forum as well as the careful consideration of the discussions of the ADD Multicultural Committee and numerous other entities and individuals, including grassroots and larger advocacy groups, are reflections of the high priority of this area of proposed funding.

ADD continues to emphasize cultural competency and recognition of the value of cultural diversity to individuals, families, and the larger community. This will be a required element in the design of projects to be funded. The suggestions for inclusion of all ages will be added to inclusion of unserved and inadequately served individuals. In proposing to fund three State projects, ADD feels that models will be developed for utilizing the resources of appropriate organizations including Historically Black Colleges and Universities and that these intense efforts will provide replicable practices and strategies for focused efforts by others.

Comment: ADD received 12 comments on Priority Area 6, Accessing Telecommunication Services for Persons With Developmental Disabilities. They were supportive and one suggested that a requirement of funding be that grantees establish electronic communication with other recipients. The ideal outcome of projects in this area would be a clearinghouse system that is interactive, assistive, and empowering of individuals seeking services and information including, for example, location of accessible housing, availability of assistive technology, details of Social Security programs, medical developments, and best practices.

Response: ADD agrees that the fast-growing capabilities occurring in cyberspace are going to be factors in communications for previously unserved and inadequately served individuals. Working out how individuals access this technology is the challenge. ADD is funding one Training Initiative Project under its University Affiliated Program which is exploring this issue, and ADD does already link its grantees through teleconferences, Internet, meetings, and forums. We would like to see more consumers, families, and providers accessing and sharing information, calendars,

concerns, and strategies for removal of barriers.

We will consider funding this priority area in future years. All newly funded PNS initiatives are expected to develop the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.

Comment: ADD received 12 comments on Priority Area 7, Meeting the Mental Health Needs of Individuals With Developmental Disabilities. ADD received many commendations for including a priority area on the mental health aspects of mental retardation and other developmental disabilities issues. Comments cited lack of training in this area and the critical need for partnerships to stimulate interagency agreements and other needed projects. It was recommended that single points of entry be established and that services follow the individual into the community.

There was a suggestion that ADD consider as a funding requirement a letter of agreement between the State mental health system and the State developmental disabilities system. There were suggestions for projects aimed at improving both the community and social presence and social skills of persons with dual diagnoses and for involvement in arts and leisure programming. Training was urged for all network participants in such issues as inclusion, psychoactive medications, anger management, and legal aspects. There was also strong support for consumer outcome measures to evaluate program impact.

Response: ADD has long felt strongly that the mental health needs of persons with developmental disabilities do not receive adequate attention. ADD was at the forefront of promoting nonaversive approaches and has funded a Project of National Significance to develop training materials for mental health professionals to help bridge the gap between systems. A number of ADD-funded University Affiliated Programs and Developmental Disabilities Councils have projects in their local areas. Community inclusion requires understanding on the part of providers and network participants and individuals and families as well. There is also great need to raise the general standard of practice regarding psychoactive medications.

The next stage of addressing this issue will be broader implementation of strategies and best practices. Effective advocacy through recruitment and training will contribute toward appropriate systems change.

Comment: ADD received l5 comments on Priority Area 8, Children at Risk: The Impact of Abuse and Violence on Children With Disabilities, all of which were supportive of the overall approach. Many commenters noted the great need for this area to be addressed. Some commented that the issue involves both the abuse of children with disabilities and disabilities caused by abuse and neglect of children. Many stated that a comprehensive multi-system, multi-agency approach must be taken to adequately address the significant issue of prevention, intervention, and treatment of abuse and neglect of children with, and at risk of, disabilities. Many commenters noted the need for coordination among a wide variety of State and local agencies in abuse cases. Several recommendations specifically stressed the need for coordinated investigations, including the importance of sharing data among agencies when abuse or neglect of a child is alleged. One commenter reported that Child Advocacy Centers throughout the country are attempting to coordinate all of the investigating entities involved in child abuse cases.

One organization noted that non-organic failure-to-thrive typically results from neglect, abuse, and poor knowledge of care giving. Another commenter recommended the need for training of professionals and research on the incidence and prevalence of Abusive Head Trauma, including Shaken Baby Syndrome (SBS), which was reported as the leading cause of disability among abused children.

One commenter noted that provision of adequate child care can help to reduce the incidence of abuse and neglect and that child care workers are a good source of identifying children at risk of abuse and neglect. Another commenter stated that a ''safety net'' could be designed to identify and enroll families at risk of abusing their children. Such families would then be provided with education and training designed to increase their parenting skills and reduce the risk of abuse and neglect.

One commenter recommended funding a group of local projects in a given State to bring about a coordinated strategy from the ''bottom up'' rather than from a Statewide demonstration which then filters change down to the local level. Another organization stressed the need for information, education, and training of a variety of audiences, disciplines, and professions, including children and youth themselves. ADD was also urged to collaborate with appropriate agencies at the Federal level to address the abuse problem.

One commenter reported how well a comprehensive Statewide approach very similar to the one described by ADD in this priority area is working in one State to prevent child abuse of children with disabilities. The strategy being used involves a wide range of agencies including the State Departments of Education, Human Resources, Mental Health and Mental Retardation, as well as the State Developmental Disabilities Planning Council and Protection and Advocacy Agency, Children's Trust Fund, Corporate Foundation for Children, a major university, and several other agencies. Besides including these entities, another organization recommended also involving the State Child Care, Health and Criminal Justice systems as well as Head Start programs.

Response: ADD is pleased to see the very favorable response to this priority area and the comprehensive approach we selected. ADD has worked over the last year, in collaboration with other Federal agencies, to help focus national attention on the problem of abuse of children with disabilities and the fact that abuse often causes disabilities. We believe that a multi-system, multi-agency coordinated approach must be used at the local, State, and national level in order to adequately address this serious problem. In this announcement, ADD will stress the need for coordination and collaboration among all agencies involved in allegations of abuse as well as in prevention activities, including the need to share data among all agencies.

We appreciate the information regarding non-organic failure to thrive and Abusive Head Trauma, including Shaken Baby Syndrome, and will address these in this announcement. ADD agrees that appropriate child care may help reduce abuse and neglect, and we will address the need for inclusive child care in Priority Area 4. Moreover, we hope child care agencies will be involved as relevant agencies in any comprehensive State or local child abuse strategy. Concerning the recommendation that a ''safety net'' approach be used of enrolling and training parents at risk of abusing their children, ADD agrees that parent skill training can help reduce the risk of abuse and neglect, but we leave the individual elements of any strategy selected to the State or local community involved.

ADD believes that with limited funds it is best to demonstrate the comprehensive, coordinated strategy at a State level first, especially given the flow of Federal funds for the various agencies involved which usually go to

the State level first and then to local communities. However, if a State wishes to develop a grant application which is focused on developing a comprehensive multi-system, multi-agency statewide strategy and then proposes to test implementation of the strategy in a number of local communities before implementation statewide, we would be interested in considering funding for this approach. ADD urges any State applying for funds to include all the relevant agencies, systems, disciplines, and other pertinent entities in its proposed strategy and grant application.

In addition to this PNS priority area, ADD will continue its interagency and interdepartmental activities to prevent and reduce the incidence of abuse of children with disabilities and all other children who are abused, many of whom develop disabilities.

Comment: ADD received 9 comments on Proposed Priority Area 9, Technical Assistance Projects. The hope was expressed that ADD could continue to provide the catalyst to generate advocacy and support for individuals to protect their legal and human rights under the ADA, Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub.L. 102–569), and the Constitution. Efforts such as the Advocacy Training/Technical Assistance Center were reported to have provided valuable technical assistance to the protection and advocacy systems. One commenter proposed a national technical assistance project independent from the existing Protection and Advocacy System.

There was a recommendation that ADD direct its resources not only to improve each component of the ADD network (Protection and Advocacy Systems, University Affiliated Programs, and Developmental Disabilities Councils) but to realize the impact of cooperative and coordinated activities focused on common goals. Commenters urged ADD to include in any training the application of the 14 principles of quality improvement developed by W. Edwards Deming for private industry, which are seen as applicable to disability issues, as well as the nine principles delineated in Reinventing Government, which reinforce such goals as outcome orientation, responsiveness to consumers, empowerment, and teamwork.

There was encouragement to separate technical assistance from program monitoring and to allow program components to direct the technical assistance provided to them. Exploring different methods of utilizing stipends or vouchers for technical assistance when needed from recognized experts was also suggested. There was also strong support for collaborative network efforts at the Federal level through memoranda of understanding and fiscal participation, which, along with deliverable products, will enable progress to go far beyond communication toward realization of supports and service benefits at the local level.

Response: The thoughtful commentary on this priority area is timely and appreciated. ADD will closely consider the input received and seek out additional consultations with the network and other stakeholders on this issue.

Comment: ADD received 27 general comments on the priority areas. They were vastly supportive of what had been proposed. Several comments were received that commended us for the way in which we approached this year's priorities through considerable consultation, discussion, and reflection and the inclusion of such issues as increasing interagency collaboration and outcome measurement methodology, consumer empowerment, system conversion, strategies for addressing abuse and violence, employment opportunities through community service, unserved and inadequately served individuals, and individuals with developmental disabilities in the criminal justice system.

There was strong support for giving highest priority to the areas of cultural diversity, consumer involvement, and technical assistance and for recognizing that collaboration and cooperation are not outcomes in themselves but means to successful programmatic results. Focusing on deliverable products, such as model memoranda of agreement, training curricula, procedural plans, or memoranda for joint funding, and on outcomes was seen as increasing the replicability of the proposed priorities.

ADD was urged to seek assurance that people with disabilities are included in implementation of funded projects through participation in advisory bodies and quality management and evaluation teams. ADD was also urged to promote culturally appropriate approaches with respect to information dissemination and recruitment of professionals and nonprofessionals.

In addition, there was strong support for ADD's continued funding of national data collection and analysis projects and a recommendation that data should reflect current best thinking of the developmental disabilities network about housing and individual supports, not facilities, and about jobs, not sheltered employment, and that duplication of effort be avoided. One commenter wished to see increased government incentives, such as tax credits, for the promulgation of charitable donations of time, assets such as housing or equipment, and funds to advance the concerns of the Projects of National Significance and other efforts.

Two comments reflected regret over lack of continuation of projects in leadership initiatives and personal assistance services and another would like to have seen more latitude for choice of project design within priority areas. More focus was called for on the Americans with Disabilities Act (ADA) through a dynamic model of empowerment for ADA compliance at the grass roots level utilizing the significant Protection and Advocacy resource.

There were some questions about targeting specific priority areas to address concerns that should already be under development by Councils and about creating or enhancing specialized structures instead of providing appropriate supports from within generic service systems.

Response: The unusual depth and range of commentary on the proposed FY 1995 funding priorities reflects an impressive intensity and commitment. ADD expended considerable energy to develop these initiatives, utilizing the resources of its network and staff, and we have applied the same diligence in consideration of comments, suggestions, and recommendations. We believe the final priority areas reflect the input received from the public comment process and a sensitivity to the concerns expressed in each of the letters received. Clearly, not every issue raised can be addressed and incorporated.

When in the past we proposed only a few priority areas, it was thought by some that the full range of needs was ignored. Proposing several priority areas has been seen by some as attempting too much. The purpose of the ADD Projects of National Significance is to chart courses that others can follow. A component of all Projects of National Significance is the development and implementation of programs and approaches that will be ongoing beyond funding periods. We have been challenged by the call to reinvent government and charged by our constituencies to promote systems change for effective response to identified needs.

ADD hopes that the description of comments received and its responses will be viewed as a forum, for we have seen an unusual range of feedback which tells us and those who read this announcement what the best thinking is

by those who share our interests and concerns. In the course of responding to proposed ADD priority areas, numerous coalitions have been formed and/or strengthened. The 62 comment letters received by the close of the comment period, the 5 letters postmarked after that date, and the 193 telephone inquiries indicate a growing nationwide force. Though we cannot fund every proposal, we will not allow the intense efforts to consult and collaborate to dissipate if a project is not funded. ADD will seek ways to create linkages so that the energy in this repository can become an ever greater resource.

Part III. The Review Process

A. Eligible Applicants

Before applications are reviewed, each will be screened to determine that the applicant is eligible for funding, as specified under the selected priority area. Applications from organizations which do not meet the eligibility requirements for the priority area will not be considered or reviewed in the competition, and the applicant will be so informed.

Only public or non-profit private entities, not individuals, are eligible to apply under any of the priority areas. On all applications developed jointly by more than one agency or organization, the applications must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, subgrantees or subcontractors.

Any nonprofit organization submitting an application must submit proof of its nonprofit status in its application at the time of submission. One means of accomplishing this is by the nonprofit agency providing a copy of the applicant's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

ADD cannot fund a nonprofit applicant without acceptable proof of its nonprofit status.

B. Review Process and Funding Decisions

Applications from eligible applicants that meet the deadline date requirements under Part V, Section C will be reviewed and scored competitively. Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this Part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ADD Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making decisions on awards, ADD may give preference to applications which focus on or feature: Culturally diverse minority or ethnic populations; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations involved in the administration or delivery of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations. This year, 5 points will be awarded in scoring for any project that includes partnership and collaboration with the 112 Empowerment Zones/ Enterprise Communities.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each proposal in terms of the evaluation criteria, provide comments, and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

1. Objectives and Need for Assistance (20 Points)

The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional or other problems requiring a solution; demonstrates the need for the assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; and includes and/or footnotes relevant data based on the results of planning studies. The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids should be attached.

2. Results or Benefits Expected (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the proposal, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs are reasonable in view of the expected results.

3. Approach (35 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved. Activities to be carried out should be listed in chronological order, showing a reasonable schedule of accomplishments and target dates.

The extent to which, when applicable, the application identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and successes of the project. The extent to which the

application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. The application also lists each organization, agency, consultant, or other key individuals or groups who will work on the project, along with a description of the activities and nature of their effort or contribution.

4. Staff Background and Organization's Experience (25 Points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The application describes the relationship between this project and other work planned, anticipated or under way by the applicant which is being supported by Federal assistance.

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization which is eligible to apply under the particular priority area.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the priority area.
- *Background Information:* This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular priority area activity. Relevant information on projects previously funded by ACF and/or other State models are noted, where applicable.
- *Minimum Requirements for Project Design:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers in evaluating the applications against the evaluation criteria. Project products, continuation of the project effort after the Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- *Project Duration:* This section specifies the maximum allowable length of time for the project period; it refers to the amount of time for which Federal funding is available.
- *Federal Share of Project Costs:* This section specifies the maximum amount of Federal support for the project.
- *Matching Requirement:* This section specifies the minimum non-Federal contribution, either through cash or in-kind match, that is required to the maximum Federal funds requested for the project.
- *Anticipated Number of Projects To Be Funded:* This section specifies the number of projects that ADD anticipates it will fund in the priority area.
- *CFDA:* This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applications that do not comply with the specific priority area requirements in the section on ''Eligible Applicants'' will not be reviewed.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. In addition, previous experience has shown that an application which is broader and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused on and directly responsive to the concerns of that specific priority area.

E. Available Funds

ADD intends to award new grants resulting from this announcement during the fourth quarter of fiscal year 1995, subject to the availability of funding. The size of the actual awards will vary. Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term ''budget period'' refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term ''project period'' refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas when the applicant is able to do so.

For multi-year projects, continued Federal funding beyond the first budget period, but within the approved project period, is subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

F. Grantee Share of Project Costs

Grantees must provide at least 25% percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).

An exception to the grantee cost-sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under section 501(d) of Pub. L. 95–134, which requires that the Department waive ''any requirement for local matching funds for grants under $200,000.''

The applicant contribution must generally be secured from non-Federal sources. Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. However, funds from some Federal programs benefitting Tribes and Native American organizations have been used to provide valid sources of matching funds. If this is the case for a Tribe or Native American organization submitting an application to ADD, that organization should identify the programs which will be providing the funds for the match in its application. If the application successfully competes for PNS grant funds, ADD will determine whether there is statutory authority for this use of the funds. The Administration for Native Americans and the DHHS Office of General Counsel will assist ADD in making this determination.

G. Cooperation in Evaluation Efforts

Grantees funded by ADD may be requested to cooperate in evaluation efforts funded by ADD. The purpose of these evaluation activities is to learn from the combined experience of multiple projects funded under a particular priority area.

H. Closed Captioning for Audiovisual Efforts

Applicants are encouraged to include ''closed captioning'' in the development of any audiovisual products.

Part IV. Fiscal Year 1995 Priority Areas for Projects of National Significance

The following section presents the final priority areas for Fiscal Year 1995 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 1995 Priority Area 1: ADD and ACYF, Family and Youth Services Bureau Collaboration Between Youth Service Providers and Disabilities Advocates to Enhance Services to Youth With Developmental Disabilities

- *Eligible Applicants*: Basic Center Programs for Runaway and Homeless Youth (RHY), Transitional Living Programs for RHY, Drug Abuse and Prevention Programs for RHY, and Youth Gang Drug Prevention Programs currently funded by the Family and Youth Services Bureau and University Affiliated Programs, State Developmental Disabilities Councils, and Protection and Advocacy Programs currently funded by the Administration on Developmental Disabilities.
- *Purpose*: Under this priority area, the Administration on Developmental Disabilities (ADD) and the Family and Youth Services Bureau (FYSB) of the Administration on Children, Youth and Families (ACYF) will jointly award demonstration grant funds to foster collaboration between its grantee programs. The purpose of these grants will be to provide improved access to services and supports for youth with developmental disabilities who are at risk of running away or becoming involved in gang activities or delinquent behavior. Both ADD and FYSB are interested in applications that will support a youth development approach to serving young people. The FYSB encourages local youth service agencies to offer a holistic service approach that acknowledges young people's strengths and contributions while responding to their needs. ADD advocates for services that enable young people with developmental disabilities to live independently through employment. This goal is achieved by drawing on both the support of the community and the youth's own resources. Employment is an important outcome for all youth with developmental disabilities.

These projects, to be conducted jointly by ADD and FYSB funded grantees, would strengthen the ability of at-risk youth with developmental disabilities (12–21 years of age) to achieve their full potential and grow to be successful, independent adults. Specifically, ADD and FYSB are seeking applications that explore methods for assisting their respective grantees to ensure access to appropriate services and supports by youth with developmental disabilities who participate in their programs.

- *Background Information:* Youth with developmental disabilities face enormous odds. Too often, as with all people with developmental disabilities, they lack the basics of American life: A good education, a job, and a real home. Tagged with diagnostic labels and segregated and discriminated against, many lack the information, assistance, and support they need to make informed choices. Their abilities are not recognized; and their differences set them apart, even from family members who love them but cannot afford or manage their special needs. Situations such as these increase the odds that youth with developmental disabilities will join the ranks of other runaway and homeless youth and youth involved in gangs or negative behaviors, thereby increasing their vulnerability.

To address these needs, FYSB and ADD established a three-year Memorandum of Understanding (MOU) to enhance coordination between the two agencies with the goal of increasing access to generic and specialized services for youth with developmental disabilities.

The FYSB administers the Runaway and Homeless Youth Program, the Transitional Living Program for Homeless Youth, the Drug Abuse Prevention Program for Runaway and Homeless Youth, and the Youth Gang Drug Prevention Program. These programs were created in response to widespread concern about the alarming number of runaway and homeless youth and youth at-risk of gang involvement. Today, an estimated 500,000 to 1.5 million youth run away from, or are forced out of their homes, and an estimated 200,000 are homeless. While there are no reliable estimates of youth at-risk of becoming involved or involved in gangs, all States have reported the rise of youth gangs and their illegal activities.

ADD grantees are involved in a variety of State and local efforts which specifically address this population. For example, addressing the transition of youth from school to the workplace is a priority for virtually all State Developmental Disabilities Councils. The Protection and Advocacy agencies advocate for the inclusion of youth with disabilities in regular classrooms and other community activities. In addition, University Affiliated Programs have as one of their mandated activities the provision of training and technical assistance to community agencies serving individuals with developmental disabilities, including youth.

FYSB and ADD are accepting applications developed jointly by at least one ADD and one FYSB funded grantee to demonstrate the need for and effectiveness of collaborations between the FYSB and ADD grantee programs to enable at-risk youth with developmental disabilities to make a successful transition from adolescence to adulthood.

Agencies interested in submitting applications under this priority area should contact FYSB at (202) 205–8060 or ADD at (202) 690–6897 for information regarding their respective programs and existing grantees.

- *Minimum Requirements for Project Design:* These projects must be conducted collaboratively between at least one ADD and one FYSB-funded grantee. Both collaborating agencies must be located in the same or neighboring communities to facilitate collaboration. Collaborations should be functional; letters of agreement are not enough. Each collaborating agency should be actively involved and should provide an essential component of service to the program.

Applications should be culturally sensitive, family based, and community focused. The population to be served by the projects should include both youth who are and who are not at-risk of running away from home or becoming involved in gang activity or delinquent behavior. In addition, both youth who have and who do not have a developmental disability should be included in the target population.

ADD and FYSB are particularly interested in supporting projects which plan to undertake the following activities:

- Improve coordination of services through increased networking and information sharing among Federal, State, and local organizations involved in providing services. These efforts should include all stakeholders, with at-risk youth and their families at the center of the collaborative partnerships.
- Identify existing programs that are providing effective services to at-risk youth with developmental disabilities.
- Enhance service delivery through the identification of the risks, issues, problems and needs of at-risk youth with developmental disabilities.
- Enhance service delivery through the identification of the existing barriers to full collaborative partnerships

designed to advance the independence, individual choice, and empowerment of at-risk youth with disabilities and their families and break the dependence these youth may ultimately have on the service delivery system.

- Improve access to supports and services through the identification and development of collaborative and comprehensive systems of support including training materials and strategies for technical assistance in state-of-the-art services and supports which promote the independence of at-risk youth with disabilities. The activities of these projects may include a technology component for youth for whom assistive devices become the key to independence.

As a general guide, we will expect to fund only those applications for projects that are

- Family focussed.
- Community based.
- Culturally competent.
- In compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).
- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $150,000 for the first 12-month budget period or a maximum of $450,000 for a three-year project period.
- *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $150,000 in Federal funds (based on an award of $150,000 per budget period) must include a match of at least $50,000 (25% total project cost).
- *Anticipated Number of Projects to be Funded:* It is anticipated that up to three (3) projects will be funded.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. FYSB's CFDA numbers are 93.623, Runaway and Homeless Youth Program, 93.550, Transitional Living Program, and 93.660, Youth Gang Drug Prevention Program.

Fiscal Year 1995 Priority Area 2: Americans With Developmental Disabilities and the Criminal Justice System

- *Eligible Applicants:* Self-advocacy groups, independent living centers, private nonprofit organizations, or agencies.
- *Purpose:* Under this priority area, ADD will award demonstration grant funds for projects addressing the consequences of becoming involved in the criminal justice system by individuals with developmental disabilities. The Americans with Disabilities Act requires police to take steps, including training when necessary, to avoid discriminatory treatment on the basis of disability. States and localities require direction and assistance to carry out these provisions.
- *Background Information:* Both as victims and those accused and convicted of committing crimes, individuals with developmental disabilities (especially mental retardation) are becoming increasingly involved in the criminal justice system. Moreover, these individuals often face unequal justice at the hands of police and the courts precisely because the current system is not educated or prepared to respond or adapt to their disabilities and self-advocates have not been considered as essential elements of the educational process.

Advocates, scholars, and others argue that people who have been very carefully taught all their lives to trust and please authority figures sometimes confess to crimes they have not and could not have committed. Police, prosecutors, and the public need to learn about the raw vulnerability of many of these citizens.

Much more focused effort must be placed on identifying and replicating best and promising practices in this area. This is especially true if the critical concept of community policing is going to be applied to individuals with disabilities in a fair and effective manner throughout our Nation.

Greater emphasis, therefore, must be placed on providing current police and new recruits with the training and technical assistance needed to afford people with disabilities who are victims or alleged perpetrators of crime with equal justice under the law.

The input and participation of people with developmental and other disabilities is crucial for familiarizing police and others with the unique range of needs and abilities of such individuals.

Additional training is needed to better prepare individuals with disabilities to avoid conduct that might place them at risk of becoming victims or accused perpetrators of criminal activities and to negotiate in the criminal justice system should they become involved with it. An understanding of Miranda rights and responses is crucial.

ADD is particularly interested in receiving applications from national, State, and local self-advocacy networks, with the capacity to work collaboratively with the developmental disabilities network, service providers, law enforcement officials, criminal justice agencies, the civil rights community, and others, who would be able to spearhead such efforts.

- *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects which include the following:
- Initiation and coordination by a self-advocacy network working collaboratively with the developmental disabilities network, disability groups, Mentally Retarded Defendants Programs, and those agencies included in the criminal justice system.
- A survey and list of programs, materials, curricula that have been developed and implemented, including relevant legal statutes.
- The implementation of an ongoing procedure for soliciting discussion, exploring experiences and perceptions, and strategizing steps for prevention, for dealing with sexual harassment, and for navigating through legal procedures, which may include focus groups, interviews following incarceration, and video presentations with a view toward receiving input and direction from individuals with developmental disabilities.
- The development of self-produced materials in such media as dramatic presentations, artwork, or music to convey issues regarding prevention of involvement and negotiating involvement with the criminal justice system.
- The development or adaptation of model programs at the local level, including coverage of sexual harassment, for implementation with individuals with developmental

disabilities, family members, service providers, police, court personnel, health and rehabilitation liaison, and others involved with the criminal justice system. Materials should be developed in easy-to-understand language.

- The development of strategies for establishing a pre-trial intervention program providing counseling, education, and family support.

As a general guide, ADD will expect to fund only those applications for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life, parental, or familial experience with living with a disability.
- Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, and migrant, homeless, and refugee families.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- A community-based approach.
- Responsiveness through systems change.
- Identification of barriers and strategies for overcoming barriers.
- Outcome orientation.
- Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.
- Development and establishment of practices and programs beyond project period.
- Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.

- *Project Duration*: This announcement is soliciting applications for a three-year project period under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.

- *Federal Share of Project Costs*: The maximum Federal share is not to exceed $70,000 for the first 12-month budget period or a maximum of $210,000 for a three-year project period.

- *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $70,000 in Federal funds (based on an award of $70,000 per budget period) must include a match of at least $23,333 (25% total project cost).

- *Anticipated Number of Projects to be Funded:* It is anticipated that up to two (2) projects will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.

- *CFDA*: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1995 Priority Area 3: First Jobs—Introducing Persons With/Without Developmental Disabilities to the World of Work and Community Service

- *Eligible Applicants*: State agencies, independent living centers, public or private nonprofit organizations, the AmeriCorps program of the Corporation for National and Community Service, institutions or agencies.
- *Purpose*: Under this priority area, ADD will award model research and demonstration funds on introducing young people to the world of work and community service. The initiative intends to target young people with/without developmental disabilities and other significant disabilities from culturally diverse backgrounds to enable them to gain first time job or community service experience that will lead to second jobs and ultimate career paths. We are particularly interested in applications that explore job opportunities for young adults (15–25 years of age).

These projects should encourage the inclusion of matches with individuals with developmental disabilities and those without developmental disabilities in job settings which would lead to a stronger workplace and community for the future.

- *Background Information*: Nationally, the employment outlook for young Americans with developmental disabilities is bleak. Progress is being made supporting people with significant disabilities in real jobs, but the following facts speak for themselves:

1. Only about 10 percent of students with developmental disabilities graduating from school go on to competitive or supported employment.
2. In 1990, only about half of people with developmental disabilities surveyed indicated they had any choice in what job they held.
3. Last, 90 cents of every Federal dollar and 80 cents of every State dollar spent on providing services to people with developmental disabilities during the day is spent on keeping individuals in segregated, non-productive settings.

The cultural change that needs to occur is a redirection of the efforts of service providers and a shifting of focus onto the abilities and skills of individuals with disabilities. First-time job support can result from partnerships with young people without disabilities. This emphasis on inclusion provides mutual benefit as young people in their first community service or employment experiences benefit from the resources of diversity.

- *Minimum Requirements for Project Design:* The projects must address

strategies for first jobs that will lead to second jobs and ultimate career paths. Research should include assessments of current practices and of necessary supports, such as transportation, adaptive technology, and personal assistance services.

Collaborative linkages among service/support providers should be explored as well as matches with individuals with developmental disabilities and those without developmental disabilities in job settings. Strategies for success should include and stress consumer choice and empowerment as essential approaches in the development and implementation of projects that will be culturally competent, ongoing, and have measurable outcomes.

The strategy should include the following components:

- The identification of the barriers encountered in putting young people to work and strategies found effective in doing so.
- The development of model memoranda of understanding among schools, businesses, and agencies at the local level as called for in the School-to-Work Opportunities Act of 1994.
- The development of policy recommendations on transitions from school-to-work.
- The development of recommendations on needed technical assistance at local and State levels.
- The development of recommendations on what roles Developmental Disabilities Councils, University Affiliated Programs, and Protection and Advocacy systems can play in increasing school-to-work opportunities.
- The evaluation of whether job sharing among young people with and without disabilities is an effective strategy for increasing the employment opportunities for both groups.

As a general guide, ADD will expect to fund only those applications for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life, parental, or familial experience with living with a disability.
- Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, and migrant, homeless, and refugee families.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- A community-based approach.
- Responsiveness through systems change.
- Identification of barriers and strategies for overcoming barriers.
- Outcome orientation.
- Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.
- Development and establishment of practices and programs beyond project period.
- Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.
- *Project Duration*: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs*: The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.
- *Matching Requirement*: Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).
- *Anticipated Number of Projects to be Funded*: It is anticipated that up to two (2) projects will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.
- *CFDA*: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1995 Priority Area 4: Child Care and Early Intervention: Linkages for Successful Inclusion of Young Children with Disabilities

- *Eligible Applicants*: State agencies, public and private nonprofit organizations, institutions or agencies.
- *Purpose*: ADD will award demonstration grant funds for projects which will increase the capacity of child care and development programs to meet the needs of young children with disabilities. Child care services need to be included among the essential partner agencies in the provision of early, continuous, intensive, and comprehensive child development and family support services to children with disabilities and their families. The primary goals of projects would be increasing access to quality child care services for children with disabilities birth through age 5 and increasing the delivery of early intervention and related services to children in natural and inclusive environments.
- *Background Information*: Although inclusion of children with disabilities within child care is not a new occurrence, few formal mechanisms support effective coordination between the child care and disability communities. These systems remain separate and apart even as they are called upon to provide services to the same children and families. Families of

young children with disabilities continue to rank child care among the highest of their unmet needs. Furthermore, early findings of the Part H Early Intervention Program for infants and toddlers show no significant number of young children receiving these services within child care or other natural environments outside the home.

Access to quality child care services for children with disabilities was significantly strengthened and is protected by the passage of the Americans with Disabilities Act (ADA) in July 1992. The ADA explicitly prohibits discrimination of children with disabilities in public and private child care settings. The ADA opens many doors and provides the legal protections to assure access to children with disabilities, but this prohibition of discrimination, in and of itself, is limited in its ability to increase the capacity of child care programs to successfully include children with disabilities. Even when providers understand their obligations under the ADA, they continue to need ongoing access to training, technical assistance, mentorship, and consultation to implement meaningful and inclusionary policies and programs.

Furthermore, the linkages between childhood disability and poverty have long gone unnoticed and unaddressed. Nearly 8 percent of children on AFDC have disabilities. Without intervention and support, children in poverty are also at risk for disability. Often overlooked by the child care system are children from homeless shelters. There are indications that many of these children exhibit higher levels of developmental problems. There is also a need for training in the implications of fetal alcohol syndrome, failure to thrive, lead poisoning, abusive head trauma, shaken baby syndrome, pediatric AIDS, and learning delay related to hearing loss from viral infection and congestion.

- *Minimum Requirements for Project Design:* ADD is particularly interested in local and Statewide projects that promote a seamless interagency approach to better serve children with disabilities, especially those children with disabilities who live in poverty. To develop child care services which are responsive to the needs of young children with disabilities and their families, the protections of the ADA must be joined with best practices in the field of early childhood education, early intervention, and family support services.

The following are types of activities projects may wish to engage in:

- Develop and implement a training program to meet the needs of the child care community, providers, and parents of children with disabilities regarding the ADA and its protections and obligations.
- Identify and demonstrate strategies and mechanisms which support and expand training opportunities across systems. Strategies should illustrate how resources and expertise can be shared, as well as establishing opportunities for technical assistance and ongoing mentorship including mentorship by parents of children with disabilities, parents with disabilities, and other individuals with disabilities.
- Develop formal and informal linkages to increase the knowledge, awareness, and access to resources and services among families, child care providers, early childhood educators, disability service providers, and others who work with children with disabilities and their families.
- Identify and document replicable programs and projects which promote supported inclusion, that is, service coordination for individualizing inclusion of children with disabilities into generic child care programs.
- Produce cost effective models to combine sources of funds or other strategies that will facilitate parents accessing child care settings of their choice.

Projects may expand their focus to children older than 5 if the primary focus is on children birth to 5. Projects may address the needs of siblings of children with disabilities as a family support if the primary focus is on children with disabilities from birth to 5.

ADD is interested in funding projects reflecting these values in culturally competent, inclusive, family-centered and measurably outcome-oriented approaches that can establish ongoing relationships.

In addition, ADD is interested in joint efforts of projects such as the Americorps program of the Corporation for National and Community Service and the Job Opportunities Basic Skills (JOBS) program, whereby young people with disabilities may participate in jobs and community service as personal assistants and inclusion aides.

As a general guide, ADD will expect to fund only those applications for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life, parental, or familial experience with living with a disability.
- Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, and migrant, homeless, and refugee families.
- Compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub.L. 102–569).
- Collaboration through partnerships and coalitions.
- A community-based approach.
- Responsiveness through systems change.
- Identification of barriers and strategies for overcoming barriers.
- Outcome orientation.
- Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.
- Development and establishment of practices and programs beyond project period.
- Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.
- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the

grantee, and determination that continued funding would be in the best interest of the Government.

- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.
- *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).
- *Anticipated Number of Projects To Be Funded:* It is anticipated that up to two (2) projects will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1995 Priority Area 5: Building a Multi-Cultural Network Within the Developmental Disabilities System Which Increases Service Equity, Opportunities, and Inclusion for Individuals From Racial and Ethnic Minority Groups

- *Eligible Applicants:* Consortium of a State Developmental Disabilities Council, University Affiliated Programs, the Protection and Advocacy Program, national developmental disabilities associations, and other multicultural institutions and organizations.
- *Purpose:* ADD is proposing to fund model demonstration projects that will enable State developmental disabilities networks in partnership with advocacy groups and self-advocates to gain and maintain the knowledge, skills, and competencies necessary to serve and empower a culturally diverse constituency. These projects should assist the components of the State developmental disabilities networks (Developmental Disabilities Councils, Protection and Advocacy Agencies, and University Affiliated Programs) in obtaining appropriate tools to identify areas of need and to develop action strategies that will address not only current needs but have as a goal institutionalizing cultural competency in every aspect of these programs. In some instances, assistance in cultural competence should be implemented at the community or policy/advocacy level whereas other programs will need assistance at a more basic internal/programmatic level. At the State level, building linkages or connections among and between the Developmental Disabilities Councils, P&As, and UAPs with cultural/ethnic organizations that are representative of community demographics will be essential as these components of the developmental disabilities network develop and implement action strategies. Within and outside the developmental disabilities system are existing resources, both material and human, that these projects should identify and utilize through a range of individuals having personal and/or professional expertise in this area.
- *Background Information:* The reality of an American society in which racial and ethnic cultural minorities are increasing in numbers and influence is becoming more evident each day. There are an estimated four million American children and adults with developmental disabilities, including a disproportionate number who are members of racial and ethnic minority groups. Many of these individuals and families from culturally diverse backgrounds remain outside of the various disability systems designed for their benefit; they are unable to gain access to the service systems, let alone fully participate in or benefit from them. Successful individuals of color with disabilities are often not encouraged or identified to serve as role models for other individuals having disabilities. In large part, the developmental disabilities network does not reflect this new multicultural reality—not among faculty, planners, staffs, trainees, or advocates.
- *Minimum Requirements for Project Design:* The program components of ADD (UAPs, DD Councils, and P&As) have recognized the need to make their programs culturally competent. Each are making efforts to address this need. If any major, long-term progress is to be made a concerted, comprehensive initiative must occur.

For applications to successfully compete under this priority they must include the following:

- Provide an overview of a range of approaches for assisting the program components and the State developmental disabilities network as a whole to acquire and achieve appropriate knowledge, skills, and competencies for serving a culturally diverse constituency.
- Develop State-level coalitions between Developmental Disabilities Councils, Protection and Advocacy Systems, University Affiliated Programs, and Historically Black Colleges and Universities (HBCUs) and other institutions of higher education with high minority and/or bilingual student enrollment, major civil rights organizations, cultural/ethnic associations, and developmental disability-advocacy organizations.
- Develop an equity service plan to bring the unserved and inadequately served individuals from culturally diverse backgrounds up to greater parity in the distribution of services.
- Develop new ways to gain information from and convey information to members of racial/ethnic/cultural groups.
- Coordinate with national developmental disabilities associations and ethnic and cultural organizations to develop and evaluate a replication package that has as its characteristics that it is user-friendly, relevant to the functions of the program components, and addresses various levels of cultural competency. As part of the evaluation it should be tested in another state.
- Produce a comprehensive dissemination package of best practices, materials, and strategies for distribution between the networks and beyond. A plan for dissemination describing initial activities needs to take place between funded projects as well as at the end of the project period.
- Coordinate with national developmental disabilities associations and ethnic and cultural organizations to maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.
- Delineate an outreach plan which has as its focus the sharing of project outcomes and training strategies to the representative associations of the program components, at an ADD national function, to other organizations within the developmental disabilities/advocacy network and the disability field, as well as major civil rights organizations, other minority organizations, and institutions of higher education such as HBCUs with the goal of leading to further collaboration and partnership at the State level in the continued development of cultural competency. Outreach activities can

occur at the national, regional, and/or State level.

- Provide an action plan for the professional recruitment and retention of individuals who are from culturally diverse backgrounds with disabilities into all aspects of the three components of the Developmental Disabilities network, especially in research, training, policy, and administration, and for diverse volunteers to serve as advisors to boards and advocacy organizations.
- Describe measurable outcomes with regard to program components becoming more representative of community demographics in their staff, board members, advisory committees, constituency; or establish memoranda of understanding with the various entities representing racial/ethnic constituencies to implement strategies reflective of the project's outcomes.
- Describe an evaluation component which will measure the project's effectiveness in achieving stated objectives, ensuring that larger numbers of individuals from racial/ethnic/cultural groups are served.

As a general guide, ADD will expect to fund only those applications for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life, parental, or familial experience with living with a disability.
- Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, and migrant, homeless, and refugee families.
- Compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- A community-based approach.
- Responsiveness through systems change.
- Identification of barriers and strategies for overcoming barriers.
- Outcome orientation.
- Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.
- Development and establishment of practices and programs beyond project period.
- Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.
- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.
- *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).
- *Anticipated Number of Projects to be Funded:* It is anticipated that up to three (3) projects will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1995 Priority Area 6: Meeting the Mental Health Needs of Individuals With Developmental Disabilities

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies.
- *Purpose:* For this priority area, ADD will award demonstration grant funds on addressing the mental health needs of individuals with developmental disabilities. ADD intends to target individuals, specifically focusing on young adults who are transitioning out of the MR/DD system and into the community with a dual diagnosis of developmental disability and mental illness, and individuals and families of individuals who live in the community and who might be on waiting lists.
- *Background Information:* Meeting the mental health needs of individuals with developmental disabilities is a ''quality of life'' goal, but often community service personnel have neither the skills nor the desire to effectively treat individuals with developmental disabilities who have mental health needs. In addition, these consumers are often caught between two service delivery systems (mental health and developmental disabilities) where the type and continuity of resources required for effective treatment and improved life quality are inefficient, ineffective, or non-existent. Improving the adequacy and availability of such resources will depend on better training for both specialized and generic service providers.

The challenge of the 1990s is to provide for a coordinated, collaborative human service delivery system that will enable individuals with developmental disabilities to receive services in an expeditious and coordinated manner. The creation of such a system will allow for full community integration and inclusion of individuals who also need mental health services.

- *Minimum Requirements for Project Design:* ADD is interested in projects which demonstrate the potential for creative and humanizing approaches to designing, implementing, and evaluating projects which assist

community agencies in coordinating efforts in the mental health and developmental disabilities service systems; educate self-advocates, family members, advocates, individuals with developmental disabilities, and service providers on state-of-the-art practices in the field of mental illness and developmental disabilities; and develop and disseminate methods for working with the mental health and developmental disabilities networks to promote full inclusion and membership in the community.

In order to successfully compete under this priority area, the application must include activities which would:

- Develop a model and train a team consisting of professionals/paraprofessionals, families, advocates, and self-advocates to help bridge the gap between systems.
- Develop and disseminate a handbook of consensus opinion on psychopharmacology. The Handbook will indicate the opinions of a large panel of consumers, scientists, and practitioners regarding what drugs should be used for what conditions, what best practices should be followed, and how consumers can provide effective oversight.
- Develop strategies to disseminate the Handbook to consumers, Protection and Advocacy agencies, oversight committees, and professionals/paraprofessionals.
- Train people who work in Protection and Advocacy in issues related to Mental Retardation/Mental Health.
- Disseminate anger management training that has been developed for people with mental retardation on a broad national level.
- Develop consumer outcome measures to evaluate the impact of programs. These measures should address the following questions: (1) Are hospitalizations reduced? (2) Do coordinated services enable individuals with developmental disabilities to remain in the community? (3) What is the feasibility of replication in other States? (4) What are the barriers in providing coordinated services? and (5) What is the efficacy of a single point of entry?
- Provide evidence of the applicant's ability to establish an advisory committee comprised of individuals with developmental disabilities and families to address what their expectations are from mental health and developmental disabilities services.
- Provide a signed letter of agreement between the State mental health system and the State developmental disabilities system of the selected project.

As a general guide, ADD will expect to fund only those applications for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life, parental, or familial experience with living with a disability.
- Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, and migrant, homeless, and refugee families.
- Compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- A community-based approach.
- Responsiveness through systems change.
- Identification of barriers and strategies for overcoming barriers.
- Outcome orientation.
- Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.
- Development and establishment of practices and programs beyond project period.
- Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.
- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.
- *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).
- *Anticipated Number of Projects to be Funded:* It is anticipated that up to one (1) project will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Proposed Fiscal Year 1995 Priority Area 7: Children at Risk: The Impact of Abuse and Violence on Children With Disabilities

- *Eligible Applicants:* A State agency to act as the lead agency in the State for the grant project.
- *Purpose:* ADD is interested in funding one or more State demonstration projects for development and implementation of a Statewide collaboration/coordination strategy to reduce the incidence of abuse and neglect of children with disabilities and reduce the incidence of abuse and neglect of children which causes or

contributes to the development of disabilities.

• *Background Information:* Children with disabilities have been found to be abused at two to ten times the rate of children without disabilities. Most perpetrators of the abuse are well known to the victim. Some of them are service providers, but most are family members. Maltreatment can include physical, sexual, and emotional abuse and physical, educational, and emotional neglect.

In addition, a significant percentage of developmental disabilities are caused by abuse. Victims of child neglect sustain such permanent disabilities as mental retardation and learning and cognitive disabilities. Abusive Head Trauma is a significant cause of disability in abused children and non-organic failure to thrive typically results from abuse or neglect. Over half the fatalities related to child abuse occur from 0 to 1 year and 90 percent of such fatalities occur in children under 5 years of age.

Clearly, there is an epidemic of abuse and neglect of children—3 million reported cases in 1993. Public awareness as well as governmental and professional intervention are urgently needed.

• *Minimum Requirements for the Project Design:* The project should involve developing a comprehensive Statewide strategy with a multi-agency, multi-system approach to address the problem of maltreatment of children with disabilities as well as abuse which leads to disabilities. This coordination and collaboration strategy should involve all pertinent State agencies/programs, including Child Welfare Services, Education, the Developmental Disabilities Protection and Advocacy Agency, Developmental Disabilities Council, Child Care, any State Head Start Coordinator, Health (including mental health and substance abuse, maternal and child health), Human Services/Welfare (AFDC, Medicaid, etc.), Mental Retardation, the criminal justice system, and any other pertinent entities such as a Children's Trust Fund. The project should also involve appropriate State Councils and planning entities including those for Family Preservation and Support, State Interagency Coordinating Council for Part H, IDEA, and other public and private programs/resources including the Developmental Disabilities University Affiliated Program in the State and consumer agencies.

The strategy should include the following components:

• The development of a plan to conduct interdisciplinary training in both the field of child abuse and neglect and the field of disability, simultaneously, which is designed for State and local agency personnel and other providers concerning the risk, investigation, reporting, assessment, intervention, and follow-up of cases of maltreatment involving children with disabilities and those at risk, including training on how to work collaboratively on an ongoing basis to prevent and reduce the incidence of abuse of children with disabilities and the development of disabilities caused by abuse.

• Design for formation of interdisciplinary teams which include disability specialists to assess and treat cases of abuse and neglect involving children with disabilities, including (1) consideration of the nature of the child's disability (e.g., osteogenesis imperfecta, self-injury) and (2) awareness of such disabilities as Abusive Head Trauma, including Shaken Baby Syndrome, and non-organic failure to thrive.

• The development of ongoing interagency agreements to facilitate coordination and collaboration of all relevant agencies/programs concerned with maltreatment cases involving children with disabilities and those children at risk of disability, including emphasizing the importance of sharing data on abuse cases among agencies involved.

• A plan for providing comprehensive community-based services for the treatment of abuse and neglect involving children with disabilities or children at risk of disability due to abuse.

• A design for prevention activities to reduce incidence of maltreatment cases involving children with disabilities or children at risk of disability, including family support programs, child abuse and neglect training for families of children with disabilities, and training for children which includes appropriate training for those with disabilities.

• Mechanisms to promote implementation of this same multi-agency/multi-system approach in local communities in the State. A State may choose to implement its project in several selected communities or try different approaches in different communities, before implementing its strategy Statewide.

Applications for funding for Statewide demonstration projects and models of prevention and intervention should include an inventory of resources and best practices, plans for replication and dissemination, and methods for the evaluation of outcomes. They should reflect cultural competency and an understanding of legal issues as well as the political realities of decentralization of service delivery and empowerment of community-based efforts.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

• Consumer/self-advocate orientation and participation.

• Key project personnel with direct life, parental, or familial experience with living with a disability.

• Strong advisory components that consist of 51% individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.

• Research reflecting the principles of participatory action.

• Cultural competency.

• A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.

• Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.

• Compliance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub. L. 102–569).

• Collaboration through partnerships and coalitions.

• Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.

• A community-based approach.

• Responsiveness through systems change.

• Identification of barriers and strategies for overcoming barriers.

• Outcome orientation.

• Measurement and ongoing evaluation, including the participation of individuals with disabilities in formulation and implementation.

• Development and establishment of practices and programs beyond project period.

• Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.

• *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.

• *Matching Requirement:* Grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% total project cost).

• *Anticipated Number of Projects To Be Funded:* It is anticipated that up to one (1) project will be funded. Subject to availability of additional resources in FY 1996 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1996 cohort of programs out of the pool of applications submitted for FY 1995 funds.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Proposed Fiscal Year 1995 Priority Area 8: Technical Assistance Projects

For this priority area, ADD will be awarding funds separately using the procurement process to provide technical assistance to improve the functions of the Developmental Disabilities Planning Councils, Protection and Advocacy Systems, and University Affiliated Programs.

Part V. Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms are provided along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in Part IV.

A. Required Notification of the State Single Point of Contact

All applications under the ADD priority areas are required to follow the Executive Order (E.O.) 12372 process, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these 19 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contacted, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new or competing continuation awards. However, there is insufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 45 days from the closing date for applications. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Sixth Floor, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Contact information for each State's SPOC is found at the end of this Part.

B. Notification of State Developmental Disabilities Planning Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Council in each State in which the applicant's project will be conducted. A list of the State Developmental Disabilities Councils is included at the end of this announcement.

C. Deadline for Submittal of Applications

One signed original and two copies of the application must be submitted on or before August 3, 1995 to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW, 6th Floor, Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Applications may be mailed or hand-delivered. Hand-delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications shall be considered as meeting an announced deadline if received by the deadline date at the ACF Grants Office (Close of Business: 4:30 p.m., local prevailing time).

Late applications: Applications which do not meet the criterion stated above are considered late applications. ACF/ADD shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes, or earthquakes; or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

D. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A, Page 2 and Certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. ''Type of Submission''—Preprinted on the form.

Item 2. ''Date Submitted'' and ''Applicant Identifier''—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. ''Date Received By State''—State use only (if applicable).

Item 4. ''Date Received by Federal Agency''—Leave blank.

Item 5. ''Applicant Information''.

''Legal Name''—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

''Organizational Unit''—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

''Address''—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

''Name and telephone number of the person to be contacted on matters involving this application (give area code)''—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. ''Employer Identification Number (EIN)''—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. ''Type of Applicant''—Self-explanatory.

Item 8. ''Type of Application''—Preprinted on the form.

Item 9. ''Name of Federal Agency''—Preprinted on the form.

Item 10. ''Catalog of Federal Domestic Assistance Number and Title''—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For all of ADD's priority areas, the following should be entered, ''93.631—Developmental Disabilities: Projects of National Significance.''

Item 11. ''Descriptive Title of Applicant's Project''—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. ''Areas Affected by Project''—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. ''Proposed Project''—Enter the desired start date for the project and projected completion date.

Item 14. ''Congressional District of Applicant/Project''—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter ''00.''

Items 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 17-month or less project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15 b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or ''matching funds.'' The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. ''Is Application Subject to Review By State Executive Order 12372 Process? Yes.''—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. ''Is Application Subject to Review By State Executive Order 12372 Process? No.''—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. ''Is the Applicant Delinquent on any Federal Debt?''—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. ''To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.''—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18 a–c. ''Typed Name of Authorized Representative, Title, Telephone Number''—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. ''Signature of Authorized Representative''—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. ''Date Signed''—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 15 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period of 17 months or less or (2) the first-year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, ''Other.''

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, ''Other.''

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, ''equipment'' is tangible, non-expendable personal property having a useful life of more than one year and acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, ''Other.''

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: Insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter ''none.'' Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled ''Totals.'' In-kind contributions are defined in title 45 of the Code of Federal Regulations, §§ 74.51 and 92.24, as ''property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.''

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column ''(b) First.'' If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under ''(c) Second.'' Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the proposal. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project ''abstract.'' It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) Objectives and Need for Assistance;

(b) Results and Benefits Expected;

(c) Approach; and

(d) Staff Background and Organization's Experience.

The specific information to be included under each of these headings is described in Section C of Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½″×11″ plain white paper, with 1″ margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for Assistance'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½×11″ sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Part V—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. Applicants must also provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory.

Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

In addition, applicants are required under Section 162(c)(3) of the Act to provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who will receive services under projects assisted under Part E will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities). Each application must include a statement providing this assurance.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

E. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

_____One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

_____Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

_____Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

A complete application consists of the following items in this order:

_____Application for Federal Assistance (SF 424, REV 4–88);

_____A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.

_____Budget Information—Non-Construction Programs (SF 424A, REV 4–88);

_____Budget justification for Section B—Budget Categories;

_____Table of Contents;

_____Letter from the Internal Revenue Service, etc. to prove non-profit status, if necessary;

_____Copy of the applicant's approved indirect cost rate agreement, if appropriate;

_____Project summary description and listing of key words; Program Narrative Statement (See Part III, Section C);

_____Organizational capability statement, including an organization chart;

_____Any appendices/attachments;

_____Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);

_____Certification Regarding Lobbying;

_____Certification of Protection of Human Subjects, if necessary; and

_____Certification Regarding Environmental Tobacco Smoke

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: June 12, 1995.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

BILLING CODE 4184–01–P

Attachment A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	*Preapplication*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that applications can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual of other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title one each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

ASSURANCES—NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (Pub. L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (Pub. L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with Pub. L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Applicant Organization

Title

Date Submitted

BILLING CODE 4184–01–P

Attachment B

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Attachment C—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction,'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions,'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment D—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OM
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District,** *if known*:	**Congressional District,** *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Attachment E—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

BILLING CODE 4184–01–P

Attachment F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PROTECTION OF HUMAN SUBJECTS ASSURANCE/CERTIFICATION/DECLARATION

☐ ORIGINAL ☐ FOLLOWUP ☐ REVISION

☐ GRANT ☐ CONTRACT ☐ FELLOW ☐ OTHER

☐ NEW ☐ RENEWAL ☐ CONTINUATION

APPLICATION IDENTIFICATION NUMBER *(If known)*

STATEMENT OF POLICY: Safeguarding the rights and welfare of subjects at risk in activities supported under grants and contracts from DHHS is primarily the responsibility of the institution which receives or is accountable to DHHS for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of DHHS that no activity involving human subjects to be supported by DHHS grants or contracts shall be undertaken unless the Institutional Review Board has reviewed and approved such activity, and the institution has submitted to DHHS a certification of such review and approval, in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended, (45 CFR 46). Administration of the DHHS policy and regulation is the responsibility of the Office for Protection from Research Risks, National Institutes of Health, Bethesda, MD 20205.

1. TITLE OF PROPOSAL OR ACTIVITY

2. PRINCIPAL INVESTIGATOR/ACTIVITY DIRECTOR/FELLOW

3. DECLARATION THAT HUMAN SUBJECTS EITHER WOULD OR WOULD NOT BE INVOLVED

☐ A. NO INDIVIDUALS WHO MIGHT BE CONSIDERED HUMAN SUBJECTS, INCLUDING THOSE FROM WHOM ORGANS, TISSUES, FLUIDS, OR OTHER MATERIALS WOULD BE DERIVED, OR WHO COULD BE IDENTIFIED BY PERSONAL DATA, WOULD BE INVOLVED IN THE PROPOSED ACTIVITY. (IF NO HUMAN SUBJECTS WOULD BE INVOLVED, CHECK THIS BOX AND PROCEED TO ITEM 7. PROPOSALS DETERMINED BY THE AGENCY TO INVOLVE HUMAN SUBJECTS WILL BE RETURNED.)

☐ B. HUMAN SUBJECTS WOULD BE INVOLVED IN THE PROPOSED ACTIVITY AS EITHER: ☐ NONE OF THE FOLLOWING, OR INCLUDING: ☐ MINORS, ☐ FETUSES, ☐ ABORTUSES, ☐ PREGNANT WOMEN, ☐ PRISONERS, ☐ MENTALLY RETARDED, ☐ MENTALLY DISABLED. UNDER SECTION 6. COOPERATING INSTITUTIONS, ON REVERSE OF THIS FORM, GIVE NAME OF INSTITUTION AND NAME AND ADDRESS OF OFFICIAL(S) AUTHORIZING ACCESS TO ANY SUBJECTS IN FACILITIES NOT UNDER DIRECT CONTROL OF THE APPLICANT OR OFFERING INSTITUTION.

4. DECLARATION OF ASSURANCE STATUS/CERTIFICATION OF REVIEW

☐ A. THIS INSTITUTION HAS NOT PREVIOUSLY FILED AN ASSURANCE AND ASSURANCE IMPLEMENTING PROCEDURES FOR THE PROTECTION OF HUMAN SUBJECTS WITH THE DHHS THAT APPLIES TO THIS APPLICATION OR ACTIVITY. ASSURANCE IS HEREBY GIVEN THAT THIS INSTITUTION WILL COMPLY WITH REQUIREMENTS OF *DHHS Regulation 45 CFR 46*, THAT IT HAS ESTABLISHED AN INSTITUTIONAL REVIEW BOARD FOR THE PROTECTION OF HUMAN SUBJECTS AND, WHEN REQUESTED, WILL SUBMIT TO DHHS DOCUMENTATION AND CERTIFICATION OF SUCH REVIEWS AND PROCEDURES AS MAY BE REQUIRED FOR IMPLEMENTATION OF THIS ASSURANCE FOR THE PROPOSED PROJECT OR ACTIVITY.

☐ B. THIS INSTITUTION HAS AN APPROVED GENERAL ASSURANCE (DHHS ASSURANCE NUMBER _____) OR AN ACTIVE SPECIAL ASSURANCE FOR THIS ONGOING ACTIVITY, ON FILE WITH DHHS. THE SIGNER CERTIFIES THAT ALL ACTIVITIES IN THIS APPLICATION PROPOSING TO INVOLVE HUMAN SUBJECTS HAVE BEEN REVIEWED AND APPROVED BY THIS INSTITUTION'S INSTITUTIONAL REVIEW BOARD IN A CONVENED MEETING ON THE DATE OF _____ IN ACCORDANCE WITH THE REQUIREMENTS OF THE *Code of Federal Regulations on Protection of Human Subjects (45 CFR 46)*. THIS CERTIFICATION INCLUDES, WHEN APPLICABLE, REQUIREMENTS FOR CERTIFYING FDA STATUS FOR EACH INVESTIGATIONAL NEW DRUG TO BE USED (SEE REVERSE SIDE OF THIS FORM).

THE INSTITUTIONAL REVIEW BOARD HAS DETERMINED, AND THE INSTITUTIONAL OFFICIAL SIGNING BELOW CONCURS THAT:

EITHER ☐ HUMAN SUBJECTS WILL NOT BE AT RISK; OR ☐ HUMAN SUBJECTS WILL BE AT RISK.

5. AND 6. SEE REVERSE SIDE

7. NAME AND ADDRESS OF INSTITUTION

8. TITLE OF INSTITUTIONAL OFFICIAL	TELEPHONE NUMBER
SIGNATURE OF INSTITUTIONAL OFFICIAL	DATE

HHS-596 (Rev. 5-80)

ENCLOSE THIS FORM WITH THE PROPOSAL OR RETURN IT TO REQUESTING AGENCY.

5. INVESTIGATIONAL NEW DRUGS - ADDITIONAL CERTIFICATION REQUIREMENT

SECTION 46.17 OF TITLE 45 OF THE Code of Federal Regulations states, "Where an organization is required to prepare or to submit a certification . . . and the proposal involves an investigational new drug within the meaning of The Food, Drug, and Cosmetic Act, the drug shall be identified in the certification together with a statement that the 30-day delay required by 21 CFR 130.3(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects; or that the Food and Drug Administration has waived the 30-day delay requirement; provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to DHHS upon such expiration or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received."

INVESTIGATIONAL NEW DRUG CERTIFICATION

TO CERTIFY COMPLIANCE WITH FDA REQUIREMENTS FOR PROPOSED USE OF INVESTIGATIONAL NEW DRUGS IN ADDITION TO CERTIFICATION OF INSTITUTIONAL REVIEW BOARD APPROVAL, THE FOLLOWING REPORT FORMAT SHOULD BE USED FOR EACH IND: (ATTACH ADDITIONAL IND CERTIFICATIONS AS NECESSARY).

— IND FORMS FILED: ☐ FDA 1571, ☐ FDA 1572, ☐ FDA 1573

— NAME OF IND AND SPONSOR _____

— DATE OF 30-DAY EXPIRATION OR FDA WAIVER
(FUTURE DATE REQUIRES FOLLOWUP REPORT TO AGENCY) _____

— FDA RESTRICTION _____

— SIGNATURE OF INVESTIGATOR _____ DATE _____

6. COOPERATING INSTITUTIONS - ADDITIONAL REPORTING REQUIREMENT

SECTION 46.16 OF TITLE 45 OF THE *Code of Federal Regulations* IMPOSES SPECIAL REQUIREMENTS ON THE CONDUCT OF STUDIES OR ACTIVITIES IN WHICH THE GRANTEE OR PRIME CONTRACTOR OBTAINS ACCESS TO ALL OR SOME OF THE SUBJECTS THROUGH COOPERATING INSTITUTIONS NOT UNDER ITS CONTROL. IN ORDER THAT THE DHHS BE FULLY INFORMED, THE FOLLOWING REPORT IS REQUESTED WHEN APPLICABLE.

USE FOLLOWING REPORT FORMAT FOR EACH INSTITUTION OTHER THAN GRANTEE OR CONTRACTING INSTITUTION WITH RESPONSIBILITY FOR HUMAN SUBJECTS PARTICIPATING IN THIS ACTIVITY: (ATTACH ADDITIONAL REPORT SHEETS AS NECESSARY).

INSTITUTIONAL AUTHORIZATION FOR ACCESS TO SUBJECTS

— SUBJECTS: STATUS (WARDS, RESIDENTS, EMPLOYEES, PATIENTS, ETC.) _____

NUMBER _____ AGE RANGE _____

NAME OF OFFICIAL (PLEASE PRINT) _____

TITLE _____ TELEPHONE _____

NAME AND ADDRESS OF COOPERATING INSTITUTION _____

— OFFICIAL SIGNATURE _____

NOTES: *(e.g., report of modification in proposal as submitted to agency affecting human subjects involvement)*

HHS-596 (Rev. 5-80) (Back)

BILLING CODE 4184–01–C

Attachment G—Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 1800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernment Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, NW., Suite 500, Washington, DC 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Govenor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, PO Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio, 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier

Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, Attn: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802,

Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750

Attachment H—State Developmental Disabilities Planning Councils

Alabama

Joan B. Hannah, Ed.D., Executive Director, Alabama Developmental Disabilities Planning Council, 200 Interstate Park Dr., P.O. Box 3710, Montgomery, Alabama 36193–5001, (205) 270–4680, 1–800–232–2158, FAX # (205) 240–3195

Alaska

David Maltman, Director, Governor's Council on Disabilities and Special Education, P.O. Box 240249, Anchorage, Alaska 99524–0249, (907) 563–5355, FAX # (907) 563–5357

Arizona

Diane Skay, Director, Governor's Council on Developmental Disabilities, 1717 West Jefferson Street, Site Code 074Z, Phoenix, Arizona 85007, (602) 542–4049, FAX # (602) 542–5339

Arkansas

Orson Berry, Executive Director, Governor's Developmental Disabilities, Planning Council, 4815 West Markham, Slot 12, Little Rock, Arkansas 72205–3867, (501) 661–2589, FAX # (510) 661–2399

California

Roberta A. Marlowe, Ph.D., Executive Director, CA State Council on Developmental Disabilities, 2000 ''O'' Street, Suite 100, Sacramento, California 95814, (916) 322–8481, FAX # (916) 443–4957

Colorado

Donald St. Louis, Executive Director, Colorado Developmental Disabilities Planning Council, 777 Grant Street, Suite 304, Denver, Colorado 80203, (303) 894–2345, FAX # (303) 894–2880

Connecticut

Edward T. Preneta, Director, CT Council on Developmental Disabilities, 90 Pitkin Street, East Hartford, Connecticut 06108, (203) 725–3829, FAX # (203) 528–3680

Delaware

James F. Linehan, Director, Developmental Disabilities Planning Council, Department of Administrative Services, Box 1401, Townsend Building, Dover, Delaware 19901, (302) 739–3333, FAX # (302) 739–6704

District of Columbia

Carol Boykins, Executive Director, Developmental Disabilities State Planning Council, 801 N. Capitol Street NE., Suite 954, Washington, DC 20002, (202) 279–6085, FAX # 6587

Florida

K. Joseph Krieger, Executive Director, Florida Developmental Disabilities Planning Council, 820 East Park Avenue, Suite I–100, Tallahassee, Florida 32301, (904) 488–4180, FAX # (904) 922–6702

Georgia

Zebe Schmitt, Executive Director, Governor's Council on Developmental Disabilities, 2 Peachtree Street NE., Room 3–210, Atlanta, Georgia 30303, (404) 657–2126, FAX # (404) 657–2132, TDD 657–2133

Hawaii

Diana Tizard, Director, State Planning Council on Developmental Disabilities, Five Waterfront Plaza, 500 Ala Moana Boulevard, Suite 5–200, Honolulu, Hawaii 96813, (808) 586–8100, FAX # (808) 586–8129

Idaho

John D. Watts, Director, Idaho State Council on Developmental Disabilities, 280 North 8th Street, Suite 208, Boise, Idaho 83720, (208) 334–2178, FAX # (208) 334–3417, 800–544–2433 (Idaho only)

Illinois

Rene Christensen-Leininger, Director, Illinois Council on Developmental Disabilities, 830 S. Spring Street, Springfield, IL 62704, (217) 782–9696, FAX # (217) 524–5339

Joan Asturrizaga, Director, Illinois Council on Developmental Disabilities, 100 W. Randolph/10–600, Chicago, Illinois, (312) 814–2080, FAX # (312) 814–7141

Indiana

Ms. Suellen Jackson-Boner, Director, Governor's Planning Council for People with Disabilities, 143 W. Market Street, Harrison Building, Suite 404, Indianapolis, Indiana 46204, (317) 232–7770/3, FAX # (317) 233–3712

Iowa

Mr. Jay Brewer, Executive Director, Governor's Planning Council for Developmental Disabilities, Hoover State Office Building, 1st Floor, Des Moines, Iowa 50319, (515) 281–7632, FAX # (515) 281–4597

Kansas

Ms. Jane Rhys, Executive Director, Kansas Planning Council on Developmental Disabilities, 915 Harrison, Room 141, Topeka, Kansas 66612, (913) 296–2608/9, FAX # (913) 296–1158

Kentucky

Prudence Reilly, Executive Director, Kentucky Developmental Disabilities Planning Council, Department for Mental Health and Mental Retardation Services, 275 East Main Street, Frankfort, Kentucky 40621, (502) 564–7842, FAX # (502) 564–3844

Louisiana

Clarice Eichelberger, Executive Director, Louisiana State Planning Council on Developmental Disabilities, P.O. Box 3455 Ben 14, 1201 Capitol Access, 5th Floor, DOT Edition, East Entrance, Baton Rouge, Louisiana 70821–3455, (504) 342–6804, FAX # (504) 342–4419

Maine

Peter R. Stowell, Executive Director, Maine Developmental Disabilities Council, Nash Building, Station #139, Augusta, Maine 04333–0139, (207) 287–4213, FAX # (207) 287–4268

Maryland

Susanne Elrod, Executive Director, Maryland State Planning Council on Developmental Disabilities, One Market Center, Box 10, 300 West Lexington Street, Baltimore, Maryland 21201–2323, (410) 333–3688, FAX # (401) 333–6674

Massachusetts

Jody Williams, Executive Director, Massachusetts Developmental Disabilities Council, 600 Washington Street, Room 670, Boston, Massachusetts 02111, (617) 727–6374, FAX # (617) 727–1174, TDD (617) 727–1885

Michigan

Ms. Sharon Tipton, Executive Director, Dept. of Mental Health, Michigan DD Council, Lewis Cass Building, 6th Floor, Lansing, Michigan 48913, (517) 334–6123, 7240, FAX # (517) 334–7353

Minnesota

Ms. Colleen Wieck, Ph.D., Executive Director, Governor's Planning Council on Developmental Disabilities, 300 Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, (612) 296–4018, FAX # (612) 296–3698

Mississippi

Ed C. Bell, Staff Director, Mississippi Developmental Disabilities Planning Council, 1101 Robert E. Lee Building, Jackson, Mississippi 39201, (601) 359–6238, FAX # (601) 359–6295

Missouri

Ms. Kay Conklin, Director, Missouri Planning Council for Developmental Disabilities, P.O. Box 687, 1706 East Elm Street, Jefferson City, Missouri 65102, (314) 751–8611, FAX # (314) 751–9207

Montana

Greg A. Olsen, Executive Director, Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Arcade Bldg., Unit C, Box 526, Helena, Montana 59620, (406) 444–1334, FAX # (406) 444–5999

Nebraska

Ms. Mary Gordon, Director, Dept. of Health/Developmental Disabilities, 301 Centennial Mall South, P.O. Box 95007, Lincoln, Nebraska 68509, (402) 471–2330, FAX # (402) 471–0383

Nevada

Donny Loux, Director, DD Council, Dept. of Rehab., 711 S. Stewart, Carson City, Nevada 89710, (702) 687–4440, FAX # (702) 687–5980

New Hampshire

Thomas Flayton, (Acting) Executive Director, New Hampshire Developmental Disabilities Council, The Concord Center—Room 315, P.O. Box 315, 10 Ferry Street, Concord, New Hampshire 03301–5022, (603) 271–3236, 7, 8, FAX # (603) 225–6766

Pennsylvania

David B. Schwartz, Executive Director, Developmental Disabilities Planning Council, Forum Building, Room 569, Commonwealth Avenue, Harrisburg, Pennsylvania 17120, (717) 787–6057

Rhode Island

Marie V. Citrone, Executive Director, Rhode Island Developmental Disabilities Council, State Executive Department, 600 New London Avenue, Cranston, Rhode Island 02920–3028, (401) 464–3191, FAX # (401) 464–3570

Oklahoma

Ann Trudgeon, Director, Developmental Disabilities Planning Council, Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125–0352, (405) 521–4984(5), FAX # (405) 521–6684

Oregon

Charlotte Duncan, Executive Director, Oregon Developmental Disabilities Planning Council, 540 24th Place NE., Salem, Oregon 97301–4517, (503) 373–7555, FAX # (503) 373–7172

North Dakota

Tom Wallner, Director, North Dakota Council on Developmental Disabilities, c/o Department of Human Services, State Capitol, 600 E. Boulevard Avenue, Bismarck, North Dakota 58505–0250, (701) 224–3219, FAX # (701) 224–2359

Ohio

Mr. Ken Campbell, Executive Director, Ohio Developmental Disabilities Planning Council, Department of Mental Retardation/Developmental Disabilities, 8 East Long Street, 6th Floor, Columbus, Ohio 43266–0523, (614) 466–5205, FAX # (614) 466–0298

New York

Isabel T. Mills, Executive Director, New York State Developmental Disabilities Planning Council, 155 Washington Avenue, 2nd Floor, Albany, New York 12210, (518) 432–8233, FAX # 518–432–8238

North Carolina

Holly Riddle, Executive Director, North Carolina Council on Developmental Disabilities, 1508 Western Blvd., Raleigh, North Carolina 27606–1359, (919) 733–6566, FAX # (919) 733–1863

New Jersey

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Tennessee

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Texas

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West Virginia

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Wisconsin

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Western Carolina Islands (Trust Territories of the Pacific)

Minoru Ueki, MD, Trust Territory Health Council, MacDonald Memorial Hospital KOROR, Palau. WCI 96940.

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Federal Register

Monday
June 19, 1995

Part III

Department of Education

Comprehensive Regional Assistance Centers Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.283A]

Comprehensive Regional Assistance Centers Program

Notice inviting applications for new awards for fiscal year (FY) 1995.

Purpose of Program: The purpose of this program is to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance related to the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (ESEA), to States, local educational agencies (LEAs), schools, tribes, community-based organizations, and other recipients of funds under the Act.

This new approach will replace the Department's current method of developing technical assistance that involves more than 40 entities providing categorical and often fragmented technical assistance. A new national technical assistance system will aid in: implementing school reform programs in a manner that improves teaching and learning for all students; coordinating reform programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

Eligible Applicants: (1) For regions (I-V, VIII, XI, XII, XIV and XV), public or private nonprofit entities or consortia of these entities are eligible to apply. (2) For regions that serve a significant population of Indian or Alaska Native students (Regions VI, VII, IX, X, and XIII), eligible applicants are consortia of public or private entities that include a tribally controlled community college or other Indian organization.

Deadline for Transmittal of Applications: August 4, 1995.

Deadline for Intergovernmental Review: September 29, 1995.

Applications Available: June 21, 1995.

Available Funds: The amount available for the first year is $55 million. Since amounts for succeeding years depend on appropriations by Congress, budget estimates should assume level funding for 5 years.

Estimated Range of Awards: $2.5 million–$4.5 million per year.

Estimated Average Size of Awards: $3.67 million.

Estimated Number of Awards: 15 Cooperative Agreements (see Definitions section).

Note: The Department is not bound by any estimate in this notice.

Project Period: Up to 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85 and 86.

Definitions

(a) ''Grant'' means an award of financial assistance in the form of money, or property in lieu of money, made by the Federal Government to an eligible recipient. The term includes a cooperative agreement except where otherwise provided by statute or regulation (see § 74.3 or § 80.3 of EDGAR).

(b) ''Cooperative agreement'' means a type of grant awarded by the Department when it anticipates having substantial involvement with the recipient during the performance of a funded project.

Selection Criteria

The Secretary will use the following criteria to evaluate applications for this competition. The maximum total score is 100. The maximum score for each criterion is indicated in parentheses with the criterion.

1. *Meeting the purposes of the authorizing statute* (30 Points). The Secretary reviews each application to determine how well the project will meet the purposes of Title XIII of the ESEA, including consideration of—

(a) The objectives of the proposed Center;

(b) How the objectives of the proposed Center further the purposes of Title XIII of the ESEA.

Under section 13002 of ESEA, the purpose of Title XIII is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under ESEA technical assistance in—

(1) Administering and implementing programs under the ESEA;

(2) Implementing school reform programs in a manner that improves teaching and learning for all students;

(3) Coordinating reform programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

(4) Adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

Under section 13101, the specific purpose of Part A—Comprehensive Regional Assistance Centers is to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under ESEA, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of ESEA funds.

Section 13001 of ESEA further specifies that technical assistance efforts under Title XIII are intended to—

(1) Help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as those schools and systems implement programs under ESEA;

(2) Help States, LEAs, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems; and

(3) Coordinate technical assistance in support of ESEA programs with the Department's regional offices, the regional educational laboratories, the State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department.

2. *Extent of Need for the Center* (20 Points). The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in Title XIII of ESEA, including consideration of—

(a) The needs addressed by the proposed Center;

(b) How the applicant identified those needs;

(c) How those needs will be met by the proposed Center;

(d) The benefits to be gained by meeting those needs.

Section 13001 of ESEA enumerates several needs for technical assistance, including—

(1) The need of States, LEAs, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, for comprehensive technical assistance in order to use funds under ESEA to provide those students with opportunities to learn to challenging State content standards and challenging

State student performance standards; and

(2) The need of States, LEAs, schools, and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under ESEA with State and local programs and other education reform efforts;

Section 13101 further refers to—

(1) The special needs of students living in urban and rural areas;

(2) The special needs of States and Outlying Areas in geographic isolation; and

(3) The need in regions serving significant populations of Indians or Alaska Natives for assistance in the development and implementation of instructional strategies, methods, and materials that address the specific cultural and other needs of Indian or Alaska Native students.

3. *Plan of Operation* (30 Points). The Secretary reviews each application to determine the quality of the plan of operation for the Center, including—

(a) The quality of the design of the Center;

(b) The extent to which the plan of management is effective and ensures proper and efficient administration of the Center;

(c) How well the objectives of the Center relate to the purposes of Title XIII of ESEA and to the identified needs of the region;

(d) The quality of the applicant plan to use its resources and personnel to achieve each objective; and

(e) How the applicant will ensure that Center participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

Section 13102 specifies that each Center will be required to—

(1) Coordinate services, work cooperatively, and regularly share information with the Regional Educational Laboratories, the Eisenhower Regional Consortia, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities that are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of those services;

(2) Consult with representatives of SEAs, LEAs, and populations served through the ESEA;

(3) Provide services to States, LEAs, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 13201, in order to provide the support and assistance diffusion agents need to carry out their mission effectively; and

(4) Provide professional development services to SEAs, LEAs, and the National Diffusion Network State Facilitators to increase the capacity of those entities to provide high-quality technical assistance in support of ESEA programs.

Section 13102 of ESEA specifies that each Center must provide support, training, and assistance to SEAs, tribal divisions of education, LEAs, schools, and other ESEA grant recipients, in—

(1) Improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under Title I of ESEA;

(2) Implementing effective schoolwide programs under Section 1114 of ESEA;

(3) Meeting the needs of children served under ESEA, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

(4) Implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel, and other staff;

(5) Improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

(6) Creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

(7) Implementing educational applications of technology;

(8) Coordinating services and programs to meet the needs of students so that students can fully participate in the educational program of the school;

(9) Expanding the involvement and participation of parents in the education of their children;

(10) Reforming schools, school systems, and the governance and management of schools;

(11) Evaluating programs;

(12) Meeting the special needs of students living in urban and rural areas and the special needs of LEAs serving urban and rural areas;

(13) Integrating and coordinating programs under ESEA with each other, as well as with other Federal, State, and local programs and reforms; and

(14) Giving priority to servicing schoolwide programs under section 1114 of IASA and LEAs and Bureau of Indian Affairs-funded schools with the highest percentages or numbers of children in poverty.

4. *Quality of Key Personnel* (7 Points). The Secretary reviews each application to determine the quality of key personnel the applicant plans to use for the proposed Center, including—

(a) The qualifications of the project director (if one is to be used);

(b) The qualifications of each of the other key personnel to be used for the Center;

(c) The time that each person referred to in paragraphs (a) and (b) will commit to the Center; and

(d) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

To determine personnel qualifications under paragraphs (a) and (b) the Secretary considers—

(1) Experience and training in fields related to the objectives of the Center; and

(2) Any other qualifications that pertain to the quality of the Center.

5. *Budget and Cost Effectiveness* (5 Points). The Secretary reviews each applicant to determine the extent to which—

(a) The budget is adequate to support the proposed Center;

(b) Costs are reasonable in relation to the objectives of the proposed Center.

Section 13102 of ESEA specifies that each Center must provide technical assistance using the highest quality and most cost-effective strategies possible.

6. *Evaluation Plan* (5 Points). The Secretary reviews each application to determine the quality of the evaluation plan for the Center, including the extent to which the applicant's methods of evaluation—

(a) Are appropriate to the project; and

(b) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the Grantee.)

7. *Adequacy of Resources* (3 Points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the Center, including facilities, equipment, and supplies.

SUPPLEMENTARY INFORMATION: The Centers will assist client organizations in furthering their systemic reform and

school restructuring efforts to improve educational services to students under the ESEA. The client organizations for these centers are: States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under the ESEA.

The Department will enter into agreements with the centers for services that provide for cooperative working relationships with each other, with client organizations and with the Department. There will be a transition period of approximately six months in which existing technical assistance centers funded under previous authorities in ESEA will continue to offer services. It is expected that the new centers will be fully operational within six months of the funding date. During this six-month period, existing centers will be available to help the new centers identify needs, incorporate operational plans, and provide other services that will aid the transition for the new centers to offer a full complement of services by March 31, 1996. Activities to foster a smooth transition may include joint meetings, briefings, information sharing, and any other activities that will improve the ability of the newly funded centers to serve the recipients of funds under ESEA.

In accordance with section 13101(a)(2) of the ESEA, the Secretary has established the following regions for the comprehensive centers:

- *Region I*—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.
- *Region II*—New York.
- *Region III*—Delaware, District of Columbia, Maryland, New Jersey, Ohio and Pennsylvania.
- *Region IV*—Kentucky, North Carolina, South Carolina, Tennessee, Virginia and West Virginia.
- *Region V*—Alabama, Arkansas, Georgia, Louisiana, and Mississippi.
- *Region VI*—Iowa, Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.
- *Region VII*—Illinois, Indiana, Kansas, Missouri, Nebraska and Oklahoma.
- *Region VIII*—Texas.
- *Region IX*—Arizona, Colorado, Nevada, New Mexico and Utah.
- *Region X*—Idaho, Montana, Oregon, Washington and Wyoming.
- *Region XI*—Northern California (all counties not included in Region XII).
- *Region XII*—Southern California (counties: Los Angeles, San Bernadino, Orange, Riverside, San Diego, Imperial, Mono, and Inyo).
- *Region XIII*—Alaska.
- *Region XIV*—Florida, Puerto Rico and Virgin Islands.
- *Region XV*—Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

In accordance with section 13101(b)(1), the Secretary ensures that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students will be awarded to a consortium that includes a tribally controlled community college or other Indian organization. Regions VI, VII, IX, X and XIII have a significant population of Indian or Alaska Natives.

APPLICATION REQUIREMENTS: Each application must demonstrate the following:

(a) How the proposed Center will provide expertise and services in the areas described in section 13102 of the ESEA.

(b) How the proposed Center will work with the National Diffusion Network to conduct outreach to schoolwide programs under Title I, section 1114 of the ESEA, and LEAs and BIA-funded schools with highest percentages or numbers of children in poverty.

(c) Support from States, LEAs, and tribes in the area to be served.

(d) How the proposed Center will ensure a fair distribution of services to urban and rural areas.

FOR APPLICATIONS PACKAGES OR INFORMATION CONTACT: Arthur Cole, U.S. Department of Education, 600 Independence Avenue SW., Portals Room 4500, Washington, D.C., 20202–6140. Telephone (202) 358–0324. Internet comp—centers@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 8621–8625.

Dated: May 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–14918 Filed 6–16–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Monday
June 19, 1995

Part IV

Department of Education

Safe and Drug-Free Schools; Notices

DEPARTMENT OF EDUCATION

RIN 1810-ZA02

Safe and Drug-Free Schools and Communities Programs

AGENCY: Department of Education.

ACTION: Notice of final priority and selection criteria for fiscal year 1995.

SUMMARY: The Secretary establishes a final funding priority and selection criteria under the Safe and Drug-Free Schools and Communities Federal Activities Grants Program for fiscal year (FY) 1995. The priority funds projects that establish, expand, or improve models for alternative education for students expelled from their regular education program.

EFFECTIVE DATE: This priority and selection criteria take effect on July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Albert Macias, U.S. Department of Education, Safe and Drug-Free Schools Programs, 600 Independence Avenue, SW, Portals Room 604, Washington, DC 20202–6123, telephone (202) 260–2823. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the Safe and Drug-Free Schools and Communities Federal Activities Grants Program is to support activities that promote achieving the seventh National Education Goal, which states that, by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment conducive to learning.

The Secretary will award approximately 10 grants in FY 1995 for a period not to exceed two years to public and private nonprofit organizations, including local educational agencies (LEAs), institutions of higher education (IHEs), and community-based organizations (CBOs) to establish, expand, and improve model alternatives to expulsion programs. These grants must be used to provide educational services to expelled students consistent will all applicable civil rights laws and policies. Contingent upon availability of funds, the Secretary may make additional awards in FY 1996 from the rank order of applicants established from this competition.

Background

Evidence indicates that a small but growing core of the student population finds that bringing a weapon to school is acceptable. A Centers for Disease Control study reports that, in 1990, 1 in 24 students carried a gun to school in the 30 days before the study, and that by 1993 the incidence had risen to 1 in 12 students. Many of these youths will be expelled from the classroom and will have no access to continuing educational services. While expulsion addresses the school's need to provide a safe, secure environment for all its students, it does not address the educational needs of students who are expelled for bringing a gun to school or engaging in other behavior that would lead to expulsion, nor does it address the long-range costs to the community of permitting expelled youths to be unsupervised for prolonged periods of time during the day.

An expelled student tends to exhibit alienation and rebelliousness toward society, a history of referrals for classroom disruption, and a predisposition toward accepting violence as an appropriate response to personal problems. These attitudes and behaviors can lead to more serious involvement with law enforcement unless they are countered by appropriate interventions.

In most circumstances, it is in the best interest of the school and community to provide alternative services, promote high standards of learning, and encourage the involvement of students, parents, and community groups in helping to ensure that the student becomes a responsible, contributing member of society.

Note: This notice of final priority and selection criteria does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Priority: Under 34 CFR 75.105(c)(3) and 20 U.S.C. 7131, the Secretary gives absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that address the absolute priority. Applications that fail to address the priority will not be reviewed or funded:

Establish, expand, or improve model projects of alternative education for youth who have been expelled from their regular school program. An applicant must propose a project that addresses both the academic needs of expelled youth and the behaviors that lead to expulsion from the regular school program.

An applicant must provide financial or in-kind contributions (including, where allowable, commitment or other Federal funds to the project), or at least 10 percent of the total cost of the first year of the project. An applicant's contribution to the project in year two must be 15 percent of the total second year project cost. Applicants other than LEAs must include proof of collaboration with an LEA as part of their application for funding.

Applicants must offer proof that they have adopted, or, in the case of a nonprofit agency applicant will adopt, a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm to an alternative education program funded by this grant.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the following criteria. Each criterion is assigned a maximum possible score indicated in parentheses. The Secretary awards up to 100 points for all of the criteria.

(1) *Need for the Project* (15 points).

The Secretary determines the extent to which the proposed project addresses a serious community problem illustrated by a large number or percentage of students in the district that have been expelled from their regular educational program. The Secretary considers the extent to which the applicant—

(a) Identifies the specific educational, social, and behavioral needs of expelled students;

(b) Involves students, teachers and counselors, parents, and community leaders in the needs assessment; and

(c) Relates needs of expelled students, including academic, behavioral, and social needs, to the proposed project objectives.

(2) *Approach* (35 points).

The Secretary determines the overall quality and appropriateness of the applicant's plan to provide alternative educational services for youth expelled from school, including the extent to which the proposed project—

(a) Is based on research, including the causes of disruptive and antisocial behavior and educational strategies that take into account of different styles of learning;

(b) Identifies measurable goals and objectives for the project, such as the number of students to be served and the percentage of students who will successfully complete the program either by re-integration or through graduation;

(c) Includes an academic component that emphasizes high educational standards for the expelled students;

(d) Includes educational practices and strategies appropriate for the expelled students and, where appropriate, includes job training and work force readiness;

(e) Describes the educational services and activities to be provided, including the length of time services will be provided for each student and the number of hours per day for which the program will operate, and indicates how these services will meet the educational, behavioral, and social needs of expelled students;

(f) Details a plan for strong collaboration among schools, law enforcement agencies, CBOs, businesses, local service organizations, parent groups, and other agencies, including a description of how they will participate in the program at every stage; and

(g) Proposes a plan for the active recruitment of all expelled students within the project area and describes how the selection of students to be served would be made.

(3) *Staff Background* (20 Points).

The Secretary reviews each application to determine the skills, abilities and educational background of key personnel the applicant plans to use on the project. The Secretary considers—

(a) The extent to which skills, experience and educational background of key staff are relevant to the objectives of the project;

(b) The staff's ability to manage the project effectively, including the ability to provide educational services and coordinate with relevant community agencies;

(c) The appropriateness of the ratio of staff to students proposed for the project; and

(d) The extent to which time commitments are appropriate for the responsibilities each staff member will have.

(4) *Budget* (10 points).

The Secretary reviews each application to determine that the project's costs are reasonable in view of the anticipated results and benefits. The Secretary considers—

(a) The cost of the proposed project in terms of the number of youth to be served by the project, the student-to-staff ratio proposed, and the facilities in which the program will be offered; and

(b) Evidence that the applicant can and intends to generate the local financial and in-kind support, service, and commitments required for this project.

(5) *Evaluation of Project* (20 Points).

The Secretary determines the quality and thoroughness of the applicant's plant to evaluate the project. The Secretary considers—

(a) The extent to which the applicant describes a plan to evaluate the long- and short-term outcomes of the program (such as the percentage of students who are able to re-integrate into the regular school program and remain free of referrals for classroom disruption) and indicates in measurable terms appropriate indicators for assessment of program implementation and impact;

(b) The extent to which the applicant provides an evaluation plan for the project that includes collection of baseline data and identifies and tracks indicators that will show progress in program implementation and attainment of outcomes;

(c) Provides for implementation of the evaluation plan by an independent evaluator; and

(d) The extent to which the applicant develops a plan for long-term tracking of participants.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 533), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. However, in order to make timely grant awards in FY 1995, the Assistant Secretary, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue this final priority and selection criteria, which will apply only to the FY 1995 grant competition.

Executive Order 12866

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, the Secretary has determined that the benefits of the proposed final priority justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local and tribal governments in the exercise of their governmental functions.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulation in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on the processes developed by State and local government for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 7131.

(Catalog of Federal Domestic Assistance Program Number 84.184b Safe and Drug-Free Schools and Communities Act Federal Activities Grant Program)

Dated: May 26, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–14919 Filed 6–16–95; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.184B]

Safe and Drug-Free Schools and Communities Act Federal Activities Grant Program

Notice inviting applications for new awards for fiscal year (FY) 1995.

Purpose of Program: To fund projects that establish, expand, or improve models for alternative education for students expelled from their regular education program.

Eligible Applicants: Public and private nonprofit organizations, including local educational agencies, institutions of higher education, and community based organizations.

Deadline for Transmittal of Applications: July 24, l995.

Deadline for Intergovernmental Review: September 22, 1995.

Applications Available: June 21, l995.

Available Funds: $3,500,000.

Estimated Range of Awards: $300,000–$400,000.

Estimated Average Size of Awards: $350,000.

Estimated Number of Awards: 10.

Project Period: Up to 24 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75 (except 75.210), 77, 79, 80, 81, 82, 85 and 86.

Priority: The priority in the notice of final priority for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition.

Selection Criteria: The selection criteria in the notice of final priority for

this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition.

For Applications or Information Contact: Albert Macias, U.S. Department of Education, Safe and Drug-Free Schools Programs, 600 Independence Avenue, SW, Portals Room 604, Washington, DC 20202–6123. Telephone: (202) 260–2823. 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.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7131.

Dated: May 26, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–14920 Filed 6–16–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Monday
June 19, 1995

Part V

Environmental Protection Agency

40 CFR Part 152, et al.
Pesticides; Technical Amendments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152, 153, 156, 157, 162, 165, 172, 180, 185, 186

[OPP–00409; FRL–4955–1]

Pesticides; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is revising its pesticide regulations by removing obsolete, superseded, expired and otherwise unnecessary sections from various parts of its regulations. These technical amendments will simplify and condense the regulations, and reduce regulatory burdens, without loss of health and environmental protection. EPA is also making associated revisions to cross-references reflecting the deletion of regulations. This final rule is a technical amendment for which notice and comment are unnecessary.
DATES: These amendments are effective August 18, 1995.
FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Policy and Special Projects Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 1113, CM #2, 1921 Jefferson Davis Highway, Arlington, VA., (703) 305–5944, frane.jean@epamail.epa.gov.

SUPPLEMENTARY INFORMATION

I. Background

On March 16, 1995, President Clinton announced a new initiative under which EPA (and other Agencies) would review all existing regulations. The Regulatory Reinvention initiative is intended to identify opportunities for streamlining, simplifying, reducing reporting and recordkeeping burdens, and promoting partnerships and stakeholder involvement in EPA regulation review.

As a result of the President's Regulatory Reinvention review, EPA has reviewed each of its pesticide regulations and identified provisions that should be removed, revised, or evaluated further for streamlining and simplification. This final rule accomplishes a number of changes, primarily deletions, that do not require notice and comment under the Administrative Procedure Act (APA). This is the first in a series of notices intended to accomplish the goals of the Regulatory Reinvention initiative. Other modifications to regulations will be proposed for notice and comment at a later date. In addition, a number of pesticide regulations are being evaluated further for more significant and far-reaching streamlining opportunities, including evaluating the requirements of the underlying programs themselves as reflected in regulations. Elsewhere in today's **Federal Register**, EPA is issuing additional regulatory revisions under other statutes administered by the Agency.

II. Pesticide Regulations

EPA regulates pesticides under the authority of two statutes, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which regulates the sale, distribution and use of pesticides in the United States, and the Federal Food, Drug and Cosmetic Act (FFDCA), which regulates, among other things, pesticide residues in food and feed. Pesticide regulations administered by EPA are located in 40 CFR parts 150–189, and comprise approximately 525 pages in the Code of Federal Regulations.

A. The Federal Insecticide, Fungicide and Rodenticide Act

Because FIFRA is a licensing statute, its regulations are, in significant part, procedural in nature. They describe how pesticide registrants and other persons must interact with EPA to obtain and maintain permission to market and use pesticides without causing unreasonable adverse effects on man or the environment, and the policies that EPA will use in administering these licensing programs. Substantive requirements affecting pesticide sale, distribution or use, for the most part, are not issued in regulatory form, but are incorporated into the registration and other licensing decisions that EPA makes. Because most of its regulations are procedural, EPA believes that few pesticide regulations under FIFRA can be removed or substantially modified without interfering with efficient administration of the programs they describe. Similarly, many of the recordkeeping and reporting burdens associated with these regulations are necessary simply for pesticide producers, registrants and others to deal with EPA in licensing matters.

B. The Federal Food, Drug and Cosmetic Act

By contrast, the FFDCA broadly requires EPA to regulate pesticide residues in food and feed, to ensure that the American public is protected against harmful residues in its food supply. Although some procedural regulations are necessary to administer the program (a petition process, together with an administrative hearing process), the bulk of regulations issued under the FFDCA consist of individual tolerances, exemptions or other clearances of pesticide chemicals in various foods and feeds. Of approximately 250 pages of regulations devoted to the FFDCA in EPA's pesticide regulations, procedural regulations comprise only about 20 percent. In addition, there are a number of finding aids and indexes that catalog and cross-reference these regulations.

III. Technical Changes to Pesticide Regulations

EPA has identified a number of technical amendments that can be made to its pesticide regulations at this time. For the most part, these consist of deletions of superseded or outmoded requirements, deletion of unnecessary material that conveys only guidance or information, but not regulatory requirements, deletion of regulations that are not required by law, or simple formatting changes to consolidate and clarify requirements. These changes are described in this Unit.

A. Part 152 - Pesticide Registration and Classification Procedures

Part 152 contains procedural regulations for registration. EPA is modifying this part as follows:

1. *Reregistration.* Subpart D contains procedural requirements for reregistration of pesticides. Shortly after these regulations were promulgated in 1988, Congress amended FIFRA (the amended law is commonly referred to as ''FIFRA–88''), establishing a detailed set of requirements for reregistration. This subpart has therefore been superseded.

2. *Amendment or notification to change active ingredient source.* Section 152.85(c), promulgated in 1984, requires that registrants who wish to change from one registered source of active ingredient to another must submit an application for amended registration. Section 152.46(a)(4), promulgated in 1988, permits such a change by simple notification to the Agency. EPA is clarifying these conflicting sections by deleting the requirement in § 152.85(c) for an amended registration and retaining the notification requirement.

3. *Voluntary cancellation.* Section 6(f) of FIFRA–88 established new procedures for registrants and EPA to effect voluntary cancellations of registration. The current regulation in 40 CFR 152.138 is therefore incomplete and no longer reflects the procedures EPA uses. Rather than continue regulations that are incomplete, EPA is deleting parts of these regulations, and moving still-current material on

supplemental distributor products into § 152.132.

4. *Actions affecting registration.* Subpart H of part 152 describes the various types of actions that are associated with registration, and refers readers to other parts of the regulations for elaboration of those requirements. Since this material is largely informational and guidance, it is not necessary in regulations and is being deleted.

5. *Obsolete restricted use chemicals.* Section 152.175 contains a list of pesticides that have been restricted by regulation. These were promulgated originally between 1978 and 1981 and a number of the chemicals are no longer registered. EPA is deleting obsolete listings for 16 pesticides from § 152.175.

6. *Intrastate pesticide products.* Subpart L describes requirements applicable to the conversion of intrastate pesticide products to Federally-registered products. FIFRA as enacted in 1972 no longer permitted pesticides to be registered solely by States; Federal registration was required.

The process of converting these products began in 1972 and by 1988 was winding down. Subpart L permitted continued sale and distribution of intrastate products until EPA could determine the acceptability of their Federal registration. EPA believes that all intrastate products have been converted or are no longer being marketed. Accordingly, EPA is deleting subpart L.

B. Subpart 153 - Registration Policies and Interpretations

This part contains various non-procedural policies and interpretations that are associated with registration. EPA is modifying this part as follows:

1. *Reporting of adverse effects information.* Subpart D of part 153 (promulgated in 1985) contains a set of regulations implementing FIFRA section 6(a)(2), describing when and how registrants must report adverse effects information to the Agency. Although promulgated in 1985, this subpart has never been made effective, and EPA is currently preparing to promulgate an updated adverse effects reporting rule, which will be clearer, simpler, and contain reduced reporting requirements. Because subpart D is not effective, and in anticipation of a replacement regulation being issued, EPA is deleting subpart D.

2. *Inert ingredients in antimicrobial products.* Section 153.139 contains a list of chemicals that EPA has determined generally to be inert (as opposed to pesticidally active) in antimicrobial products. The listing is still valid, and EPA intends to continue to use it as the basis for inert ingredient determinations, but EPA believes that the list can be more efficiently updated informally by the Agency outside of the regulations. EPA intends to maintain the list within the Agency, and make it available as needed to registrants. Accordingly, EPA is deleting § 153.139.

3. *Coloration of pesticides.* Subpart H addresses the circumstances when pesticide products must be colored or discolored. The individual pesticides listed in this subpart (arsenicals and fluosilicate compounds) are no longer registered and not sold for pesticide use. Accordingly, EPA is deleting four sections in this subpart requiring coloration or discoloration of individual pesticide products. EPA is also revising § 153.140 to delete references to the coloration system. EPA will retain § 153.155 which requires that seed treatment products be colored with an EPA-approved dye to avoid the possibility that treated seeds may be inadvertently used as animal feed.

4. *Devices.* Subpart M contains a listing of FIFRA requirements pertaining to pesticide devices. Although not required to be registered, devices are subject to a variety of requirements, such as labeling, and compliance activities such as recordkeeping and registration of establishments. This section simply refers the reader to those requirements in FIFRA and the regulations that apply to devices. Even though individually these requirements are stated elsewhere, EPA believes that the compilation of requirements in a single location is useful to the regulated industry. EPA is transferring the material, however, into part 152 as subpart Z.

C. Part 157 - Packaging Requirements for Pesticides and Devices

This part, promulgated in 1986, consists solely of requirements for child-resistant packaging at this time. EPA is removing § 157.39, which stated the compliance date for the rule, now past.

D. Part 165 - Regulations for the Acceptance of Certain Pesticides and Recommended Procedures for the Disposal and Storage of Pesticides and Pesticide Containers

This part, promulgated in 1974, addresses two discrete topics. Subpart B contains regulations under which EPA was required to accept for disposal pesticides that were both suspended and canceled. Subsequent to promulgation, FIFRA-88 transferred to pesticide registrants the responsibility for such disposal. EPA has completed the disposal of all pesticides for which it was responsible under these regulations and subpart B is no longer needed. Subparts C and D contain recommended procedures for storage and disposal of pesticides and containers. These subparts were superseded by the passage of the Resource Conservation and Recovery Act in 1976. Moreover, FIFRA section 19 contains new authority for EPA in the area of pesticide storage and disposal, and regulations under current section 19 have been proposed that would replace part 165. Accordingly, EPA is deleting part 165.

E. Part 172 - Experimental Use Permits

This part describes the procedures for applying for and obtaining an experimental use permit under FIFRA section 5. The holder of an experimental use permit is required by § 172.8 to submit quarterly progress reports on his or her experimental work, and a final report. EPA finds that the quarterly progress reports are not needed, and rarely used by the Agency, and is deleting the requirement for such reports contained in § 172.8(b)(1). The final report, however, required by § 172.8(b)(2) is being retained: the information required in the final report is used to evaluate the experimental program and the data generated during the program are used in future determinations on the registrability of the pesticide.

F. Parts 180, 185, and 186 - Pesticide Tolerances

These three parts contain listings of individual tolerances for raw foods, processed foods, and processed animal feeds, respectively. Some of these tolerances are time-limited and have expired. EPA is deleting expired time-limited tolerances from various regulations in these parts.

IV. Effect of Deletion of Regulations

The removal or modification of these regulatory provisions from the Code of Federal Regulations is not intended to affect the status of any civil or criminal actions initiated prior to June 19, 1995, or which may be initiated in the future to redress violations of the rules that occurred when the rules were still legally in effect.

V. Good Cause Exemption From Notice and Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comments before issuing a final rule. Rules are exempt from the requirement

if the agency finds for good cause that notice and comment are unnecessary. For the reasons discussed in Unit III of this preamble, EPA has determined that providing prior notice and opportunity for comment on the modification or deletion from the CFR of these rules is unnecessary.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, 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 section of the economy, productivity, competition, jobs, the environmental, 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 (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.

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), EPA has determined that this is not a significant regulation. These amendments lessen burdens rather than add burdens; therefore review under the RFA is not required.

C. Paperwork Reduction Act

This rule contains no information collection requirements, and, therefore is not required to be reviewed under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Parts 152, 153, 156, 157, 162, 165, 172, 180, 185, 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Animal feeds, Food additives, Infants and children, Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements, Research.

Dated: June 14, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, under the Administrator's authority, 7 U.S.C. 136 *et seq.* and 21 U.S.C. 346 *et seq.*, title 40, chapter I of the Code of Federal Regulations, is amended as follows:

1. In part 152:

PART 152—[AMENDED]

a. The authority citation continues to read as follows:

Authority: 7 U.S.C. 136–136y; Subpart U is also issued under 31 U.S.C. 9701.

§ 152.1 [Amended]

b. Section 152.1 is amended by removing the last sentence.

§ 152.50 [Amended]

c. In § 152.50, paragraph (f)(3) is amended by removing the last sentence.

Subpart D [Removed and Reserved]

d. Subpart D, consisting of §§ 152.60 through 152.70, is removed and reserved.

§ 152.85 [Amended]

e. In § 152.85, paragraph (c) is amended by removing the second sentence.

§ 152.115 [Amended]

f. In § 152.115(d), the words ''and § 152.148'' are removed.

§ 152.125 [Amended]

g. In § 152.125, the words ''and subpart D of part 153 of this chapter'' are removed.

§ 152.132 [Amended]

§ 152.138 [Partially Redesignated and Removed]

h. Section § 152.138 is amended by redesignating paragraph (c) as paragraph (e) of § 152.132, and by removing the remainder of § 152.138.

Subpart H [Removed and Reserved]

i. Subpart H, consisting of §§ 152.140 through 152.159, is removed and reserved.

§ 152.175 [Amended]

j. In the table in § 152.175, the complete entries for acrylonitrile, allyl alcohol, calcium cyanide, chlorfenvinphos, cycloheximide, demeton, dioxathion, endrin, EPN, fensulfothion, fluoracetamide/1081, hydrocyanic acid, mevinphos, monocrotophos, phosacetim and TEPP are removed.

Subpart L [Removed and Reserved]

k. Subpart L, consisting of §§ 152.220 through 152.230, is removed and reserved.

Subpart Z to part 152 [Redesignated From Subpart M to Part 153]

l. Subpart Z entitled Devices, is redesignated from subpart M, part 153. Subpart Z consists of § 152.500 which is redesignated from § 153.240.

2. In part 153:

PART 153—[AMENDED]

a. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 136w.

Subpart D [Removed and Reserved]

b. Subpart D, consisting of §§ 153.61 through 153.78, is removed and reserved.

§ 153.125 [Amended]

c. In § 153.125, by removing the parenthetical text ''(including those listed in § 153.139),'' from paragraph (b) and by removing paragraph (c) and by redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

§§ 153.139, 153.142, 153.145, 153.150, and 153.158 [Removed]

d. Sections 153.139, 153.142, 153.145, 153.150, and 153.158 are removed.

e. Section 153.140 is revised to read as follows:

§ 153.140 General.

Section 25(c)(5) of the Act authorizes the Administrator to prescribe regulations requiring coloration or discoloration of any pesticide if the Administrator determines that such requirements are feasible and necessary for the protection of health and the environment. This subpart describes those pesticide products which must be colored or discolored.

Subpart M to part 153 [Redesignated]

f. Subpart M and § 153.240 are redesignated as Subpart Z in part 152 and § 152.500, respectively.

3. In part 156:

PART 156—[AMENDED]

a. The authority citation continues to read as follows:

Authority: 7 U.S.C. 136–136y.

§ 156.10 [Amended]

b. In § 156.10 paragraph (a)(5) introductory text is amended by

changing the reference to ''§ 153.240'' to read ''§ 152.500''.

4. In part 157:

PART 157—[AMENDED]

a. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 136w.

§ 157.39 [Removed]

b. Section 157.39 is removed.

5. In part 162:

PART 162—[AMENDED]

a. The authority citation for subpart D is revised to read as follows:

Authority: 7 U.S.C. 136v, 136w.

§ 162.150 [Amended]

b. In § 162.150, paragraph (b) is amended by removing the third sentence.

§ 162.153 [Amended]

c. In § 162.153, paragraph (c)(2), the reference to ''subpart A of this part, and of part 163 of this chapter,'' is revised to read ''part 152 of this chapter,'' and in paragraph (d) the reference to ''subpart A and of part 163'', is revised to read ''part 152 of this chapter''.

PART 165—[REMOVED]

6. Part 165 is removed.

7. In part 172:

PART 172—[AMENDED]

a. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 136c, 136w. Section 172.4 is also issued under 31 U.S.C. 9701.

§ 172.8 [Amended]

b. In § 172.8, paragraph (b)(1) is removed and reserved.

c. In § 172.25, by revising paragraphs (g)(1) and (g)(2) to read as follows:

§ 172.25 Administration of State programs.

* * * * *

(g) * * *

(1) Disposed of in accordance with a disposal plan approved as part of the experimental program; or

(2) Returned to the permittee for storage or disposal in accordance with the requirements of RCRA and rules there under; or

* * * * *

8. In part 180:

PART 180—[AMENDED]

a. The authority citation continues to read as follows:

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

b. Section 180.115 is revised to read as follows:

§ 180.115 Zineb; tolerances for residues.

Tolerances for residues of the fungicide zineb (zinc ethylene bisdithiocarbamate) in or on raw agricultural commodities are established as follows:

Commodity	Parts Per million	Expiration date
Grapes (wine use only)[1]	7	December 31, 1997

[1] Wine grapes grown for wine vintage years 1992 (Northern Hemisphere), 1993 (Southern Hemisphere), and earlier.

§§ 180.246, 180.285, and 180.1005 [Removed]

c. Sections 180.246, 180.285, and 180.1005 are removed.

§ 180.319 [Amended]

d. In the table in § 180.319, the entire entries for ''sodium arsenite'' and ''zineb (zinc ethylene bisdithiocarbamate)'' are removed.

§ 180.320 [Amended]

e. In § 180.320, by removing the designation for paragraph (a) and by removing paragraph (b).

9. In part 185:

PART 185—[AMENDED]

a. The authority citation continues to read as follows:

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

§ 185.2275 [Removed]

b. Section 185.2275 is removed.

§ 185.2700 [Amended]

c. In § 185.2700, by removing the designation for paragraph (a), and by removing paragraphs (b) and (c).

10. In part 186:

PART 186—[AMENDED]

a. The authority citation continues to read as follows:

Authority: 21 U.S.C. 348.

§§ 186.400, 186.750, 186.3415, 186.4725, and 186.5225 [Removed]

b. Sections 186.400, 186.750, 186.3415, 186.4725, and 186.5225 are removed.

§ 186.2275 [Amended]

c. In § 186.2275, by removing the designation for paragraph (a) and by removing paragraph (b).

[FR Doc. 95–14911 Filed 6–16–95; 8:45 am]

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1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

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