

Federal Register

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: June 28 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202-523-4538



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Title 3—**Presidential Determination No. 95-26 of June 8, 1995****The President****Certification To Permit U.S. Contributions to the International Fund for Ireland for Fiscal Years 1994 and 1995****Memorandum for the Secretary of State**

Pursuant to section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415), I hereby certify that I am satisfied that: (1) the Board of the International Fund for Ireland as established pursuant to the Anglo-Irish Agreement of November 15, 1985, is, as a whole, broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund (a) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation, and (b) will address the needs of both communities in Northern Ireland.

You are authorized and directed to transmit this determination and certification to the Congress, together with the Memorandum of Explanation, and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 8, 1995.

MEMORANDUM OF EXPLANATION FOR CERTIFICATION OF THE FISCAL YEARS 1994 AND 1995 U.S. CONTRIBUTION TO THE INTERNATIONAL FUND FOR IRELAND**I. INTRODUCTION**

This memorandum has been prepared to comply with legislative requirements associated with the Anglo-Irish Agreement Support Act of 1986, Public Law 99-415 (the "Act").

Section 5(c) of the Act requires that each fiscal year, prior to contributions to the International Fund for Ireland ("IFI" or the "Fund"), the President certify to the Congress that he is satisfied the following conditions have been met:

A. The Board of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities of the Republic of Ireland and Northern Ireland; and

B. Disbursements from the IFI:

1. will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

2. will address the needs of both communities in Northern Ireland.

II. BACKGROUND

A. *Establishment and Operation of the Fund*

The International Fund for Ireland was formally established as an independent entity on December 12, 1986, in keeping with the provisions of the Anglo-Irish Agreement of November 15, 1985. The overall objectives of the Fund are to promote economic and social advancement and to encourage contact, dialogue, and reconciliation between nationalists and unionists throughout Ireland and Northern Ireland. The Anglo-Irish Agreement states that the Fund shall accomplish these objectives by stimulating private investment and encouraging voluntary efforts with special emphasis on projects promoting communal reconciliation. The Agreement also stipulated the establishment of two investment companies under the Fund.

The Fund is an independent entity which is administered by a Board of Directors appointed jointly by the British and Irish governments. The Board is guided by a Joint Advisory Committee consisting of senior civil servants drawn equally from Northern Ireland and the Republic of Ireland. The Advisory Committee's principal role is to advise the Board on the economic and social policies and priorities of the two governments and to maximize the impact of assistance by avoiding duplication of activity. The Board is supported by a Secretariat composed of administrators from the two jurisdictions. The Secretariat is headed by two Joint Directors General, one from each jurisdiction. The Fund's operating expenses are paid by the British and Irish governments.

The Fund's activities are developed primarily through program teams in the following areas: Business Enterprise, Tourism, Urban Development, Agriculture and Rural Development, Science and Technology, the Wider Horizons Program, and the Disadvantaged Areas Initiative. These program teams are composed of an equal number of representatives from Northern Ireland and the Republic of Ireland. The teams are administered by joint chairmen who keep the Board of Directors apprised of their respective program teams' activities.

In an effort to focus on the more disadvantaged areas, the Fund directs 70–80 percent of the resources available in the program sectors to disadvantaged areas in Northern Ireland. The Fund has also created two additional program schemes: Community Economic Regeneration, which focuses on community driven regeneration of economic activity in urban areas; and Community Regeneration and Improvement Special Program (CRISP), which is designated for disadvantaged areas in Northern Ireland and focuses the Fund's resources on smaller towns and villages by linking a series of projects from the various program areas together.

B. *Fund Contributions*

The Fund receives contributions directly from bilateral and multilateral donors. U.S. obligations to date total \$209.1 million. Under the appropriate Foreign Operations, Export Financing, and Related Programs Appropriations Acts, Congress appropriated an additional \$39.2 million for FY 1994 and FY 1995 funds. Since 1989, the European Community has disbursed 15 million European Currency Units (approximately US\$20 million) per year to the Fund, totaling \$108 million to date, and will contribute \$60 million in FY 1995. New Zealand contributed about \$0.6 million in FY 1995 and Canada has provided approximately \$7.5 million.

Each donor is entitled to appoint a representative to attend all Board meetings as a non-voting observer. Observers receive all Board papers and provide guidance to the Fund on behalf of their respective donor countries.

C. *Program Implementation*

Since its establishment in 1986, the Fund has approved a total of 3,500 projects and budgeted over \$399 million to its various program areas. Some \$358 million has been committed to approved projects within the various programs. The Fund has disbursed approximately \$279 million to ongoing and completed projects, including \$21.7 million to the two investment companies.

Individual project applications continue to represent a majority of the projects for funding. However, the program teams are assisting various communities in identifying and preparing proposals through regular contact and consultation with a number of area Economic Development Consultants. The Consultants serve as a point of contact for local communities, provide technical assistance and advice, and help to speed program implementation.

The Fund has put into place a computerized system of recording key data for the projects. Information, such as employment generation, leveraging, and geographical distribution of funds, is collected and logged into the new system. The information system has assisted the IFI in developing its capacity to analyze and report on the economic and social indicators of the Fund's achievements.

Disbursement procedures have also been established for the U.S. contribution to the Fund. In October 1992, USAID established a Letter of Credit mechanism to meet the legislative requirement to disburse funds at the minimum rate necessary to make timely payments for projects and activities. The Letter of Credit has allowed the U.S. Government to exercise greater control over money distributed to the Fund by transferring resources only when needed, and thereby minimizing interest costs to the U.S. Treasury.

D. Job Creation and Additional Investment

Two elements identified as priorities of the U.S. Government in its contribution to the Fund are job creation and the leveraging of additional investment into the economy. Both elements have been adopted by the Fund in the implementation of its program.

The Fund agrees that job creation is an essential factor in determining the allocation of Fund resources and clearly places an emphasis on the job creation potential of each project considered for funding. The Fund estimates that its activities directly resulted in the creation of about 20,500 new jobs and indirectly resulted in the creation of an additional 8,500 jobs. Construction activities have also resulted in 25,500 person-years of temporary employment.

The Fund has also been successful in leveraging new investment. Of the \$397 million of Fund resources committed to approved projects, another \$353 million and \$264 million of private and government resources, respectively, have been invested. Thus every dollar that the Fund has committed has resulted in an additional \$1.70 committed from other sources.

III. PRESIDENTIAL CERTIFICATION ELEMENTS

Each fiscal year, prior to the United States making a contribution to the Fund, the President must certify to Congress that he is satisfied that the Fund has complied with the legislative requirements in the Act. This Certification covers both the FY 1994 and FY 1995 contributions to the Fund. The following discusses the required elements.

A. Board Representation

The Board of Directors consists of seven members; three nominated by the British government, three nominated by the Irish government, and the Chairman. Board members are approved by both sides through consultations between the two governments. The Board, by design and agreement, is representative of the communities in both Northern Ireland and Ireland. The Board meets once every two months, primarily to review policy and procedural issues and to approve or reject proposals forwarded by the program teams for consideration. In addition, each Board member is responsible for coordinating with specific program teams and is consulted on a regular basis.

The Board members are as follows:

Mr. William T. McCarter (Chairman) is a prominent businessman in the textile industry. He is the Managing Director of Fruit of the Loom, International Ltd. with plants in Northern Ireland and the border County Donegal in the Republic of Ireland. Mr. McCarter was born in Londonderry, graduated

from Trinity College, Dublin and from the Massachusetts Institute of Technology. He now lives in Bucranna, County Donegal.

Mr. John E. Craig, OBE is a retired merchant banker with extensive experience in London. He is Chairman of Powerscreen International a very successful exporting firm based in County Tyrone. Mr. Craig was born in Dublin.

Mr. Paddy Duffy is a prominent lawyer with offices in a number of rural towns in Northern Ireland. He is active in the local credit union movement and Chairman of Dungannon and District Cooperative Society. Mr. Duffy is a former Social Democratic Labor Party councillor and Senator in the Northern Ireland Assembly.

Mr. Pat Kenny is an accountant by profession and a partner in the firm Deloitte, Touche in Dublin.

Ms. Joan McCrum until recently was the Chief Executive of the Housing Rights Association, a voluntary housing advice organization. Ms. McCrum now works for the Simon Community, a voluntary charity body, and acts as an independent consultant.

Ms. Caitriona Murphy is a former senior public official in government service in Dublin and is now a managing director for the Allied Irish Bank in Dublin.

Mr. Brian A. Slowey was, until his recent retirement, a managing director of Guinness Ireland, and the Chairman of Aer Lingus.

As in the past, the present Board is noted for its professionalism and integrity in setting policy and approving projects. The Board has taken an active role in promoting the Fund throughout Northern Ireland and Republic of Ireland as well as internationally.

B. Disbursements From the International Fund

The Fund's structure and policy framework ensure that resources are distributed in accordance with the principle of equality of opportunity and non-discrimination in employment, without regard to religious affiliation, and that these resources address the needs of both communities in Northern Ireland and the six border counties of the Republic of Ireland.

The Board has developed its policies for disbursement of resources taking into account the terms of the Agreement under which it was established, the wishes of the donor countries, and the need to supplement the economic and social policies of the two governments. The Board structure and policy framework is manifested in the internal checks and balances in the Fund's appraisal, approval, and management systems. Also, the wide geographical distribution of approved projects enhances the Fund's efforts to meet the needs of both communities. The Fund's programs have created jobs, leveraged private investments, and fostered reconciliation. In addition, the Fund has made concerted efforts to target the most disadvantaged areas through CRISP and other special programs as well as the through the work of development consultants.

1. *Distribution of disbursements in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation.*

a. *Structure of the Fund.* The Republic of Ireland and Northern Ireland are equally represented by members of the Fund's Board of Directors, Advisory Committee, Secretariat, and Program Teams. These individuals are highly respected for their professional competence, integrity, and commitment to the Fund's objectives. The Advisory Committee, as mentioned above, is composed of senior officials of both the British and Irish governments and provides guidance and support for the Board. The Secretariat staff maintains the day-to-day operations of the Fund and has been carefully selected for their administrative skills and judgement. The Program Teams are staffed with technical and administrative professionals who are committed to the Fund's operating principles of non-discrimination. Review of the IFI portfolio of projects and visits to selected sites by Agency for Inter-

national Development (USAID) personnel have confirmed that the Fund has assembled a competent and professional staff who have cultivated and exercised sound project approval and management procedures.

b. *Policy Framework.* All Fund publications and solicitations for proposals clearly spell out the Fund's commitment to equality of opportunity and nondiscrimination. All successful applicants are required by the Board to agree to the following prior to receiving an award:

Acceptance of a grant or loan under this scheme will be deemed to signify the applicant's acceptance of the principle of equality of opportunity and non-discrimination in employment, without regard to religious affiliation and that the applicant will be expected to use the money in accordance with this principle.

Letters of offer clearly state that any violation of this agreement will require immediate repayment of resources. To date, the Fund has not had to request repayment.

Equality of opportunity requirements are also enforced in Northern Ireland under the Fair Employment (Northern Ireland) Act of 1989. This act makes employment discrimination on the grounds of religious belief or public opinion illegal. The Act is designed to eradicate job discrimination and ensure the active practice of fair employment opportunity throughout Northern Ireland.

c. *Project Appraisal and Approval.* The Fund has instituted a clear and systematic appraisal and approval system. Each Program Team has signed agreements with the Fund Secretariat that spell out the criteria upon which all applications are made. As mentioned above, the Program Teams consist of officials from various government agencies, both North and South, which, in close cooperation with the Secretariat, help to bring the programs to fruition. The Team members, chosen for their expertise in their particular sector, review each project based on its merit using standard economic and financial analysis tools, as well as criteria relevant to their technical field.

Projects must also be consistent with the economic and social policies and priorities of the British and Irish governments. Each government reserves the right to veto support for activities proposed which violate their stated policies. No resources are to be used, for example, to improve the standing of or to further the goals of any paramilitary organization, either directly or indirectly. The Fund, the British government, and the Irish government are, however, committed to supporting activities which contribute to viable, self-sustaining growth, prosperity, and stability. In addition, it is hoped that the projects will have a positive impact on increasing respect for human rights and fundamental freedoms for citizens of both traditions from Northern Ireland and the Republic.

Thus, within the Fund's policy guidelines and the established criteria for the evaluation and approval process, projects are accepted for funding, rejected, or forwarded to an appropriate government agency for possible support from existing government programs. Applications are processed in a timely and efficient manner, consistent with a proper and prudent review of projects. In addition, of course, a considerable responsibility rests with the individual promoters of projects who must take the lead in completing their share of the financial package and implementing the project to a stage where payment can be made.

Each decision to approve, disapprove, or forward a project to a government agency requires the recommendation of the relevant program team, the endorsement of the two Board members supervising the team, and the approval of the Fund Secretariat. Any projects which are controversial, raise policy issues, or exceed the program team's delegation of authority, are forwarded to the Board for consideration.

Equality of opportunity and nondiscrimination are the guiding principles under which the Fund operates. Projects are reviewed on merit alone, without

regard to political or religious affiliations of the applicants. The cross-community composition of the Fund Board, the Secretariat, and the program teams ensures the realization of these principles.

2. Addressing the needs of both communities in Northern Ireland.

In order to comply with British law, the principles under which the Fund was established, and the U.S. Government priorities under which our contributions are made, religious affiliation is not a factor in the approval process. It is generally known, however, which religious majority is predominant within a specific geographical area.

Past program review visits have confirmed that through Fund activities, members of both communities have been able to experience for the first time a working or recreational experience with people of the opposite tradition. Such liaisons have produced cross-community boards of directors (under such organizations as the enterprise centers), cross-community enterprise matchmaking, cross-border joint ventures (such as the Derry-Galway-Boston Trade Fair), and genuine friendships. Other projects, (such as the Shannon-erne Waterway) have been able to bring people of various communities together to promote their areas and to provide facilities to attract visitors and holiday markets. Because of these improvements, The Waterway Area was awarded a Tourism Award from the British Guild of Travel Writers. The civil servants of both governments in laboring together on the Fund have also developed excellent working, as well as personal, relationships with their counterparts. Such interaction contributes to reconciliation through dialogue and cooperation.

During a program review visit in November of 1994, USAID officials observed that the Fund is highly regarded by moderates from both the Catholic and Protestant communities for the work they have done and the attitudinal changes they have been able to stimulate. The Springboard-training and reconciliation program helps to promote these changes in younger people. This curriculum teaches courses in order to develop vocational training and mixes students from the West Belfast's Catholic and Protestant communities, allowing them to work together. There has been a concerted effort to reach out to those who were skeptical of the Fund activities, specifically in the Protestant communities, and this effort continue.

The Fund has made a concerted effort to direct assistance to the more economically disadvantaged areas. Special programs, such as CRISP, have been developed toward this end. The work of the development consultants is important in assisting the disadvantaged communities to develop ideas and proposals to help themselves through the Fund. The consultants participate in establishing local groups, ensure cross-community participation whenever possible, and assist groups in creating viable projects. In many cases, however, the IFI merely serves as a catalyst for community initiatives that have been developing independently of the Fund. The consultants are also instrumental in contributing to a greater overall understanding and positive perception of the Fund among the people of both communities.

IV. CONCLUSION

A review of Fund activities and a visit to Republic of Ireland and Northern Ireland by a senior USAID officer confirmed that the Board of Directors has maintained policies and procedures designed to ensure that both traditions benefit from Fund activities. The Board's operating principles ensure that project decisions are made on the basis of merit. In addition, it has been concluded that Fund resources are being distributed in a manner consistent with its mandate as stated above. All grantees are made aware of the principles of equality of opportunity and nondiscrimination in employment, stipulated by acceptance of any grant monies.

This report therefore concludes that:

- The Board of Directors of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities in the Republic of Ireland and Northern Ireland.
- Monies from the Fund are distributed in accordance with the principles of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation, and address the needs of both communities in Northern Ireland.

[FR Doc. 95-15383

Filed 6-19-95; 4:59 pm]

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Rules and Regulations

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Thursday, June 22, 1995

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.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[FV95-922-1IFR]

Apricots Grown in Designated Counties in Washington; Temporary Suspension of Grade Requirements for Apricots of the Patterson Variety

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule suspends, for the 1995 season only, the minimum grade requirements (Washington No. 1) currently in effect for fresh shipments of the Patterson variety of apricots grown in Washington. The suspension will enable handlers of Patterson variety apricots to ship more fruit to the fresh market, taking into consideration the significant hail damage experienced by this variety during the growing season. This action will improve returns to producers of the Patterson variety of apricots. This rule was recommended by the Washington Apricot Marketing Committee (Committee), the agency responsible for the local administration of the marketing order for Washington apricots.

DATES: Effective: July 1, 1995.

Comments received by July 24, 1995 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724 or Britthany Beadle, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 30 handlers of Washington apricots subject to regulation under the order and approximately 400 producers of Washington apricots in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of apricot handlers and producers may be classified as small entities.

Section 922.52 [7 CFR 922.52] authorizes the issuance of regulations for grade, size, quality, maturity, pack, markings, and container for any variety or varieties of apricots grown in any district or districts of the production area. Section 922.53 [7 CFR 922.53] authorizes the modification, suspension, or termination of the regulations issued under section 922.52.

Minimum grade, color, and size requirements for Washington apricots regulated under the order are specified in section 922.321 Apricot Regulation 21 (7 CFR 922.321). Section 922.321 provides that no handler shall handle any container of apricots unless such apricots grade not less than Washington No. 1, except for shipments that are exempt from regulation. In addition, this section provides that, with the exception of exempt shipments, apricots shipped must be reasonably uniform in color, and be at least 1⁵/₈ inches in diameter, except for the Blenheim, Blenril, and Tilton varieties which must be at least 1¹/₄ inches in diameter.

This rule suspends the minimum grade requirements for fresh shipments

of the Patterson variety of apricots for the 1995 season. The grade requirements for the Patterson variety currently specified in section 922.321 will resume April 1, 1996, for the 1996 and future seasons. Color and size requirements for the Patterson variety will remain unchanged.

The Committee met on May 11, 1995, and unanimously recommended the suspension of grade requirements for the Patterson variety. The Committee requested that this suspension be made effective by July 1, 1995, since the harvest of the Patterson variety is expected to begin shortly thereafter.

The Committee meets prior to each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington apricots which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information submitted by the Committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Information available to the Committee indicates that the Patterson variety of apricots experienced severe hail damage this season. The excessive damage was a result of location and stage of fruit development. The Patterson variety is the latest variety of apricots produced within the production area. Earlier varieties of apricots did not experience significant hail damage.

This suspension will enable handlers to ship a larger portion of the Patterson variety to the fresh market this season, than if the minimum grade requirements were not suspended. Without suspension of the grade requirements for the Patterson variety, most of the fruit could not be shipped to fresh markets. Last year, 151 tons of the Patterson variety were shipped into the fresh market. Information available to the Committee indicates that with suspension of the grade requirements for the Patterson variety, approximately 125 tons might be shipped to the fresh market. Since the Patterson variety is the latest variety of apricots shipped within the production area, the suspension of the grade requirements for this variety should not adversely affect the marketing of other varieties.

Suspension of the grade requirements for the Patterson variety is intended to increase fresh shipments to meet

consumer needs and improve returns to producers.

Based on the above information, the Administrator of the AMS has determined that this interim final rule will not have a significant impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of the Patterson variety of apricots grown in designated counties in Washington.

After consideration of all available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action suspends the current grade requirements for the Patterson variety of Washington apricots; (2) the Committee unanimously recommended this rule at a public meeting and all interested persons had an opportunity to provide input; (3) shipment of the Patterson variety of apricots is expected to begin in early July, and this rule should apply to the entire season's shipments; (4) handlers of the Patterson variety of apricots are aware of this rule and they need no additional time to comply with the relaxed requirements; and (5) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 922.321, paragraph (a)(1) is revised to read as follows:

§ 922.321 Apricot Regulation 21.

(a) * * *

(1) *Minimum grade and maturity requirements.* Such apricots that grade not less than Washington No. 1 and are

at least reasonably uniform in color: *Provided*, That the grade requirement shall not apply to apricots of the Patterson variety handled during the 1995 season through March 31, 1996: *Provided further*, That such apricots of the Moorpark variety in open containers shall be generally well matured; and

* * * * *

Dated: June 15, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-15109 Filed 6-21-95; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AE17

Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations, in accordance with the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). The amendments are necessary to ensure that local authorities will be notified in the event of an accident so that they may take appropriate action. The regulation will provide a level of preparedness at these facilities that is consistent with NRC's defense-in-depth philosophy.

EFFECTIVE DATE: September 20, 1995.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301-415-6534).

SUPPLEMENTARY INFORMATION:

Background

On May 27, 1986 (51 FR 19106), following Commission approval, the proposed revision to 10 CFR part 72 relating to licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), including requirements for emergency planning, was published in the **Federal Register** for comment.

On November 30, 1988 (53 FR 31651), the Commission published the final rule outlining the licensing requirements for ISFSI and MRS but reserved the emergency planning licensing requirements for a later date.

On May 24, 1993 (58 FR 29795), the Commission published for public comment the proposed emergency planning licensing requirements for ISFSI and MRS. This final rule codifies the emergency planning licensing requirements.

Discussion

On April 7, 1989 (54 FR 14051), the Commission published in the **Federal Register** the final regulations relating to Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees (10 CFR parts 30, 40, and 70).

These regulations require certain NRC fuel cycle and other radioactive materials licensees that engage in activities that may have the potential for a significant accidental release of NRC licensed materials to establish and maintain approved emergency plans for responding to such accidents.

Although applicable to those licensed under different parts of the Commission's regulations, the requirements for emergency plans in parts 30, 40, and 70 contain similar provisions because they are designed to protect the public against similar radiological hazards. The proposed revision of 10 CFR part 72 as published for comment on May 24, 1993 (58 FR 29795), would also require applicants for an ISFSI and MRS license to submit an emergency plan. Although the texts of the Fuel Cycle final emergency planning requirements and the parallel provisions of the proposed Emergency Preparedness licensing requirements for ISFSI and MRS are not identical, these provisions have the same purpose and use the same approach. In both cases, the proposed regulations require onsite emergency planning with provisions for offsite emergency response in terms of coordination and communication with offsite authorities and the public. It is therefore appropriate that in both cases these requirements should be expressed in the same manner.

The Commission has determined that the emergency planning licensing requirements for 10 CFR part 72

licensees should be similar to those requirements already codified in § 70.22 for part 70 licensees. Nonetheless, the Commission wishes to establish unique provisions in the emergency planning requirements for MRS facilities (and certain more complex ISFSIs) versus typical ISFSI facilities. The Commission anticipates a potential need for enhanced emergency planning requirements appropriate to the entire range of operations which may be conducted at an MRS facility (or ISFSI that may be repackaging or handling spent fuel). The Commission acknowledges that, to date, accidents that have been postulated and analyzed for either an ISFSI or MRS would result in similar offsite doses. The analysis of potential onsite and offsite consequences of accidental releases associated with the operation of an ISFSI is contained in NUREG-1140. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would not exceed 1 rem effective dose equivalent, which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity).

Thus, the consequences of worst-case accidents involving an ISFSI located on a reactor site would be inconsequential when compared to those involving the reactor itself. Therefore, current reactor emergency plans cover all at- or near-reactor ISFSI's. An ISFSI that is to be licensed for a stand-alone operation will need an emergency plan established in accordance with the requirements in this rulemaking. NUREG-1140 concluded that the postulated worst-case accident involving an ISFSI has insignificant consequences to the public health and safety. Therefore, the final requirements to be imposed on most ISFSI licensees reflect this fact, and do not mandate formal offsite components to their onsite emergency plans.

Similarly, the Commission has conducted an analysis of potential onsite and offsite consequences of accidental release associated with the operation of an MRS. The analysis is contained in NUREG-1092. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of

radioactive materials would likely not exceed 1 rem effective dose equivalent which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity).

In the final NRC Generic Environmental Impact Statement on the handling and storage of light water reactor fuel,¹ it is stated that

* * * To be a potential radiological hazard to the general public, radioactive materials must be released from a facility and dispersed offsite. For this to happen:

- The radioactive material must be in a dispersible form
- There must be a mechanism available for the release of such materials from the facility, and
- There must be a mechanism available for offsite dispersion of such released material.

Although the inventory of radioactive material contained in 1000 MTHM of aged spent fuel may be on the order of a billion curies or more, very little is available in a dispersible form; there is no mechanism available for the release of radioactive materials in significant quantities from facility; and the only mechanism available for offsite dispersion is atmosphere dispersion * * *.

Furthermore, NRC has conducted Safety Evaluations on many different storage systems. Those studies included evaluations of the effects of corrosion, handling accidents such as cask drops and tipovers, explosions, fires, floods, earthquakes, and severe weather conditions. As documented in each of those Safety Evaluation Reports (SER), NRC was not able to identify any design basis accident that would result in the failure of a confinement boundary. However, to provide a conservative bounding analysis of the threat to the public health and safety, the failure of the confinement barrier was postulated. As discussed in each of the SERs and again in the response to Issue 48 the consequences of this postulated failure do not result in an increased risk to the public health and safety.

In the environmental assessment for 10 CFR Part 72,² the accident judged the most severe was the failure of a packaged fuel element. In this analysis, the accident involves the failure of a storage system containing 1.7 MTHM. The postulated individual doses are presented in Table 1.³

¹ NUREG-0575 Vol. 1 sec. 4.2.2 Safety and Accident Considerations.

² NUREG-1092 Environmental Assessment for Part 72 "Licensing Requirements for Independent Spent Fuel and High-Level Radioactive Waste."

³ NUREG-1092 Table 2.2.4-2

TABLE 1.—TOTAL DOSE TO AN INDIVIDUAL AS A RESULT OF A FUEL CANISTER FAILURE ACCIDENT AT A SURFACE STORAGE INSTALLATION (MREM)

Pathway	Skin	Total Body	Thyroid	Lung
Air Submersion	1.0×10^{-1}	1.1×10^{-3}	1.1×10^{-3}	1.1×10^{-3}
Inhalation		1.2×10^{-5}	1.1×10^{-2}	7.3×10^{-5}
Total	1.0×10^{-1}	1.1×10^{-3}	1.2×10^{-2}	1.1×10^{-3}

Note: The maximum individual is defined as a permanent resident at a location 1600 meters southeast of the stack with a time-integrated atmospheric dispersion coefficient (E/Q of 1.5×10^{-4} sec/m³). The accident involves failure of a fuel canister containing approximately 1.7 MTHM.

Since the time these calculations were performed, the storage canisters have increased in capacity, and today the capacity of the largest approved design is approximately 9 MTHM. However, because dose varies directly with inventory, when the totals are increased by a factor of ten, they are still a very small fraction of the 300 mrem/yr⁴ an individual receives from natural background radiation, and is below the EPA protective action guides.

Nonetheless, the Commission believes it appropriate to require enhanced offsite emergency planning at an MRS (as well as any ISFSI that conducts similar operations) because of the broader scope of activities which could be performed at such a facility.

In addition to the handling and repackaging for storage of large numbers of individual fuel bundles, which involves the receipt, inspection, and transfer of several thousand transport casks, MRS operations may also encompass the consolidation of the stored fuel into casks for subsequent geological disposal after interim storage. At this time, a final MRS design has not been selected. The MRS may be a large industrial facility equipped to handle the loading, unloading, and decontaminating of a large number of spent fuel shipping containers arriving by both truck and rail. It could also include facilities to disassemble the fuel bundles and consolidate that fuel into special storage/transport containers, and facilities to handle solidified high-level waste. These facilities would require the equipment necessary to process low- and high-level waste that would be associated with the above operations. It is also possible, however, for an MRS facility to serve primarily as a warehouse operation, limited solely to accepting, sorting and later transshipping a large number of multi-purpose canister (MPC) systems of the type being considered by DOE.

The Multi-Purpose-Canister (MPC) being considered by the DOE would be used to store and transport spent fuel. The MPC system provides a sealed

canister into which spent fuel would be loaded. After loading, the MPC is evacuated, backfilled with an inert gas, and then permanently sealed. At this point the MPC concept offers several options: the sealed canister could be placed into a storage overpack at the reactor site, or it could be placed in a transportation overpack for movement to an ISFSI or MRS. After arriving at the ISFSI or MRS the MPC would most likely be placed in the storage configuration awaiting transport to the geological repository. When the repository is ready to accept fuel, several options would exist. The canisters could be placed into the transport overpack for movement to the geological repository. Once there, the canister could be transferred directly into the disposal overpack for emplacement into the repository. An option to repackage the spent fuel into disposal canisters allowing the optimum configuration required at the repository remains possible. This could take place at either the repository or MRS. Because the canister may only be opened once during its entire storage life and individual fuel elements only handled under a controlled environment, the MPC concept appears to reduce the overall risk to public health and safety.

Given the uncertainties in the design and operation of an MRS, the Commission believes it prudent to plan and provide for an enhanced level of emergency planning to include some offsite preparedness should operation of a MRS (or any ISFSI conducting similar operations) present accident risks that exceed those analyzed in NUREGs 1140 and 1092. Because the level of risk to the public health and safety from such an MRS (or ISFSI) may exceed that from a typical ISFSI, the relevant emergency planning requirements should be enhanced to include an offsite component. To achieve this goal, the final enhanced emergency plan requirements are modeled after 10 CFR 50.47(d). The intent of 10 CFR 50.47(d) was to mandate a minimum level of offsite response capability during initial reactor licensing and low power operations. This same level of response

capability is considered appropriate to MRS (and any comparable ISFSI) operations. Because much of the language needed to achieve this level of offsite protection has already been codified in 10 CFR Part 50, similar language is included within the final emergency planning requirements for an MRS (and ISFSI) (10 CFR 72.32(b)(15)(i-vi)).

The Commission notes that, for both types of facilities, this rulemaking is not required in order to provide adequate safety and may not be justified based solely on a comparison of the anticipated costs of implementing these regulations to the increase in public health and safety. Rather, the Commission believes that it is justified in terms of safety enhancement such as the intangible benefit of being able to assure the public that local authorities will be notified in the event of an accident so that they may take appropriate actions. The NRC feels that such preparedness is prudent and consistent with the NRC's philosophy of defense-in-depth.

Public Comments

The NRC received a total of 25 comment letters. Five were from utilities, two were from organizations representing utilities, eight were from State and/or local emergency management agencies, three were from the Mescalero Indian Tribe, five were from environmental/intervener groups, one was from a private citizen, and one was from the Department of Energy.

One of the letters that opposed the proposed regulation came from a member of the Mescalero Indian Tribe and included the signatures of 40 other tribal members who agreed with opposition to the proposed rule change. Opposition also came from the private citizen, all of the intervener/environmental groups, and a local governmental official.

Letters that were generally in agreement with the proposed rule change were submitted by the Mescalero Tribal MRS Program Manager, the Department of Energy, all of the utilities, all of the State governmental

⁴NRC Report No. 94.

agencies, and from the industry groups (though the industry group letters expressed a preference for deferring the MRS portion of the regulation (10 CFR 72.32(b)) because the industry groups considered it premature).

The comment letters that were received provided many thought-provoking and constructive comments. The Commission's evaluation of and response to these comments is presented in the following section.

Issue 1. The frequency for conducting offsite communication checks (quarterly) and onsite exercises (annually) for MRS should not be more conservative than for ISFSI communications checks (semiannually) and onsite exercises (biennially). The increase in frequency is not justified by experience or analysis.

Response. The Commission agrees that the onsite exercise requirements should be biennial rather than annual. Nonetheless, the quarterly communication checks will remain unchanged due to the obvious importance of reliable communications capabilities.

Issue 2. The proposed rule, 10 CFR 72.32(a)(15) states that the review shall include certain "arrangements" and "other organizations." Those items are not listed as specific elements to be included in the plan. It is inferred that they do not need to be addressed other than in the information regarding offsite interface activities required by paragraphs (a)(7), (a)(8), (a)(9), (a)(10), (a)(12), and (a)(14). As written, the paragraph imposes a review requirement upon the NRC and is merely informational to the applicant.

Response. The Commission agrees and has rewritten §§ 72.32(a)(15) and 72.32(b)(15) in the final regulations.

Issue 3. The discussion section and the proposed rule regarding the frequency of communications checks should be consistent. The discussion section indicates quarterly checks (page 29796, Section xii) and the proposed rule in 10 CFR 72.32(a)(12)(i) indicates semiannual checks. Semiannual checks are appropriate.

Response. The Commission disagrees. The discussion section referred to relates to a Final Rulemaking for Fuel Cycle and Material licensees published on April 7, 1989 (54 FR 14051). The requirement for quarterly communication checks is identical to that requirement for an MRS (and comparable ISFSI). The semiannual communication checks are for a typical, storage only ISFSI. There is no inconsistency.

Issue 4. At a site where the affected ISFSI site could be contiguous to a Part

50 licensed site, the 10 CFR 50.47 emergency plans should apply automatically. This would preclude the unnecessary expenditure of limited utility, State, local and Federal resources; avoid duplication in emergency preparedness; and minimize confusion offsite. In order to limit confusion, change the existing proposed first sentence of 10 CFR 72.32(a) to read: "For an ISFSI that is located on (or immediately adjacent to) the site of a nuclear power reactor * * *"

Response. The Commission agrees and has incorporated this concept into the final regulation by referencing the exclusion area as defined in 10 CFR part 100.

Issue 5. The following areas of the proposed rule introduce inconsistencies that require clarification: Paragraphs (a)(1) through (a)(13) of 10 CFR 72.32 list specific information to be included in the emergency plan. Paragraph (a)(16) also appears to list specific information to be included. However, it is unclear whether paragraphs (a)(14) and (a)(15) are intended to be specific information included in the emergency plan or review and comment requirements related to the submittal of the emergency plan which do not have to be included as specific information in the plan. The discussion contained in the supplementary information section of the **Federal Register** notice implies that these paragraphs are review and comment requirements only. "* * * the proposed requirements to be imposed on ISFSI licensee * * * do not mandate formal offsite components to their onsite emergency plans." (58 FR 29797, May 24, 1993.)

Response. The Commission agrees and has clarified paragraphs (a)(14) and (a)(15).

Issue 6. 10 CFR 72.32(a)(15), Offsite Arrangement: The wording "* * * arrangements to accommodate State local staff at the licensee's near-site emergency facility have been made, * * *," should be deleted from § 72.32(a)(15). The nature of potential emergency events at ISFSIs do not require personnel from State and local governments to respond in a staff capacity, and do not require near-site emergency facilities to be available. The proposed rule already requires that the emergency facilities at the site, and the emergency response staff for the facility, be adequate for emergency planning purposes.

Response. The Commission agrees and has incorporated this comment in the final regulation.

Issue 7. 10 CFR 72.32(b)(14), Offsite Review: The request for the offsite response organization to comment as to

whether an offsite component to emergency preparedness at an MRS is reasonable, appropriate, or premature at this time. We believe that it is, in fact, premature at this time. The analyses that have already been done undoubtedly contain a considerable amount of conservatism. It is far easier to add requirements later, should they be found to be recommended, than to remove them when they are confirmed to be excessive later.

Response. See Commission Response to Issue 18.

Issue 8. 10 CFR 72.32(a)(13), Hazardous Chemicals: The certification deals with hazardous materials at the facility. The last phrase of the statement does not clearly convey this message. To clarify, the commenters suggest replacing the phrase, "if applicable to the applicant's activities at the proposed place of use of special nuclear material," with "with respect to hazardous materials at the facility."

Response. The Commission agrees and has clarified the final rule accordingly.

Issue 9. 10 CFR 72.32(a)(14), Offsite Review: The proposed rule should only require the 60-day comment period for offsite response organizations prior to the initial plan submittal to the NRC. Subsequent plan changes should not have this 60-day time restriction built into the submittal process unless the plan changes involve offsite response organizations.

Response. The Commission agrees and has changed the final rule accordingly.

Issue 10. 10 CFR 72.32(a)(12)ii, Offsite Participation: "Participation of offsite response organizations in biennial exercises, although recommended, is not required," sends a message to State and local agencies that they may need extensive planning to accommodate the facility. There is nothing unique to a potential release from an ISFSI that is not enveloped by the utility and associated State and local emergency plans to support an operating plant or one with a possession only license. State and local agencies should be provided a copy of the facility's plan and be asked to take part in "table-top" exercises to help them understand their role.

Response. The Commission disagrees, because offsite response organizations should also become familiar with the facility.

Issue 11. 10 CFR 73.32(a)(12)(i), Exercises: The listed drills are capitalized, creating the impression that they are specific types of drills, such as those described in NUREG-0654, for the conduct of similar type drills for

operating power reactors. Furthermore, ISFSIs, in view of the relatively passive nature of the facility and the potential consequence of a release as compared to operating power reactors, do not warrant this frequency. Drills should be held biennially.

Response. See the Commission's Response to Issue 12. Additionally, the frequency of these drills have been changed from semiannual to annual.

Issue 12. It is recommended that the existing wording, "* * * Radiological/Health Physics, Medical, and Fire Drills should be conducted semiannually * * *," be reworded in a manner similar to 10 CFR 50.47(b)(14) as follows: "Periodic drills shall be conducted to develop and maintain key skills."

Response. The Commission disagrees because it believes that it is beneficial to specify the types of drills necessary.

Issue 13. 10 CFR 72.32(a)(12)(i), Exercises: Semiannual fire drills may not be appropriate for an ISFSI because there are no flammable materials associated with the facility.

Response. The frequency of these drills has been changed and will be required annually.

Issue 14. 10 CFR 72.32(a)(8), Notification and Coordination: The means to promptly notify offsite response organizations should be limited to using commercial telephones. Ring-down systems should not be necessary to meet this requirement.

Response. Ring-down systems are not mentioned in the proposed or final regulations.

Issue 15. 10 CFR 72.32(a)(6), Assessment of Releases: Extensive dose assessment methodology is not necessary to implement the emergency plans.

Response. The proposed rule did not suggest requiring and the final regulation does not require "Extensive" dose assessment.

Issue 16. 10 CFR 72.32(a)(8), Notification and Coordination: The Emergency Response Data System (ERDS) provides for the automated transmission of a limited data set of selected onsite parameters (e.g., system pressure, temperature, radiation monitoring). The activation of the ERDS does not apply to nuclear power facilities that are shut down permanently or indefinitely. The activation of ERDS should not apply to ISFSI incidents even located at operating plant sites.

Response. The proposed rule did not suggest requiring and the final regulation does not require the use of ERDS.

Issue 17. 10 CFR 72.32(a)(3), Classification Requirements: The implementation guidance for the rule should provide for the simplest and easiest understood classification, notification, and reporting system for non-emergency events. NUREG-1140 "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licenses," August 1991 Section 2.27 (Spent Fuel Storage) supports the discussion that EPA's protective action guides would not be exceeded during an accident. Therefore, both classifications for a site and general emergency should not be considered. Redundant classifications, notifications and reports for non-emergency events, such as Notifications of Unusual Events (NOUEs), 1-hour non-emergency event reports, and four-hour non-emergency event reports used for operating reactors, should not apply to ISFSIs and MRSs. These conclusions are based on the magnitude, duration, and energy involved in an incident involving spent fuel storage facilities. These analyses have been docketed as part of submittals to the NRC to license individual ISFSIs. For actual ISFSI and MRS emergencies, the emergency classification, "Alert," should be sufficient. A "NOUE" classification for ISFSI and MRS emergency planning should not be necessary.

Response. The proposed rule did not suggest requiring and the final regulation does not require the use of notification of unusual events "NOUE" or "general" emergency classification.

Issue 18. EEL/WASTE supports adoption of proposed § 72.32(a) that would establish emergency planning requirements for ISFSI. EEL/WASTE recommends that NRC defer proposed § 72.32(b) that would establish emergency planning requirements for MRSs. Because no final design for MRS facilities has been selected, there is no rational basis to determine the level of radiological hazards for which emergency planning requirements are designed. It is therefore premature for the NRC to establish emergency planning requirements for MRS facilities.

Response. The Commission disagrees. The proposed emergency planning licensing requirements for an MRS as published in the **Federal Register** on May 24, 1993 (58 FR 29795), have provided to the public some insight as to what the Commission now feels would be appropriate and reasonable emergency planning licensing requirements for an MRS. One comment stated that, "We have concluded that minimum requirements, such as those currently proposed by the NRC

rulemaking process, should serve as guidance for the starting point from which Emergency Planning and Licensing Requirements can be fully developed." Also, the Department of Energy stated that it "* * * intends to work closely with the host community to develop a comprehensive emergency response plan with offsite components that will not only encompass the requirements contained in 10 CFR 72.32(b)(15), but likely will exceed them."

Issue 19. The proposed rule does not require MRS operators to notify local residents of any increased exposure, nor does it require MRS operators to develop a plan for evacuation. This rule is an unfair burden on local emergency responders with little or no training for these type of emergencies. There is specialized training and equipment for radiation accidents and exposure; therefore, the proposed rules should provide for the training and obtaining equipment for the local responders.

Response. The Commission disagrees. The emergency planning regulations specifically require in 10 CFR 72.32(b)(8), "Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations * * *" In 10 CFR 72.32(b)(9), (10), and (12), the licensee is required to provide:

Information to be communicated: A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC. "Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel." * * * The licensee shall invite offsite response organizations to participate in the annual exercises.

Additionally, in 10 CFR 72.32(b)(15) and (b)(16) the licensee is required to identify:

(ii) Provisions that exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.

(iii) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(iv) Adequate methods, systems, and equipment for assessing and monitoring actual or potential consequences of a radiological emergency condition are available.

(v) Arrangements are made for medical services for contaminated and injured onsite individuals.

(vi) Radiological Emergency Response Training has been made available to those off site who may be called to assist in an emergency on site.

(16) Arrangements made for providing information to the public.

Issue 20. Although it is true that emergency plans for ISFSI and MRS need not be equivalent to emergency plans for reactors due to the relatively passive natures of the ISFSI and MRS, offsite emergency planning should not be eliminated for either type of facility. The proposed rule indicates that the maximum offsite dose due to an accidental release of radioactive material from either type of facility would probably not exceed 1 rem. However, 1 rem is within the Environmental Protection Agency (EPA) Protective Action Guides of 1–5 rem whole body, and it is the lower limit of these guides which is to be used as the basis for taking protective actions in emergency response. The commenter would also question whether worst-case scenarios have been considered in the evaluation of potential offsite doses. Worst-case scenarios would include acts of radiological sabotage, such as terrorist attacks employing explosives. Offsite emergency planning is a prudent measure to take against such uncertainties. Offsite plans may not be needed for a 10-mile radius, as is the case for power reactors, but they should not be eliminated for ISFSI and MRS. Reducing the radius of the Emergency Planning Zone (EPZ) (perhaps to 1–5 miles, as appropriate) is the proper response to the reduced hazard posed by the ISFSI and MRS. A reduced zone will provide the basis and flexibility for an enhanced offsite response in those events where this is necessary.

Response. Emergency planning requirements for power reactors, fuel cycle facilities, ISFSIs and MRSs are all based on a spectrum of accidents, including worst-case severe accidents. Emergency planning focuses on the detection of accidents and the mitigation of their consequences. Emergency planning does not focus on the initiating events. Therefore, based on the potential inventory of radioactive material, potential driving forces for distributing that amount of radioactive material, and the probability of the initiation of these events, the Commission concludes that the offsite consequences of potential accidents at an ISFSI or a MRS would not warrant establishing Emergency Planning Zones.

Issue 21. In the interest of protecting public health and safety, appropriate offsite agencies should be notified immediately of any classifiable accident at an ISFSI or MRS. Section 72.32(a)8 should specify that the agency(ies) with responsibility to respond to accidents receive the notifications. In Illinois,

IDNS should be notified of all such accidents. Consequently, we request that any licensee submitting a plan for approval under 10 CFR part 72 for an ISFSI or MRS in Illinois specifically provide in its emergency plan for timely notifications to IDNS. The notifications are important to ensure that emergency response actions are not unduly or unnecessarily delayed.

Response. The Commission agrees. This comment focuses on the rationale that was used in proposing the following requirements:

A commitment to, and a brief description of, the means to promptly notify offsite response organizations and request offsite assistance, including medical and “The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee’s emergency plan before submitting it to NRC.” * * * The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

Issue 22. The requirements for exercises are appropriate for the facilities involved. We do believe, however, that offsite participation in these exercises should be an integral, not perfunctory, part of the exercise process. Invitations to participate should be both timely and informative, maximizing the opportunity for productive interaction between licensee and offsite personnel. The rule should require that licensees document timely invitations to offsite agencies to participate in annual or biennial exercises, and offsite participation actually resulting from these invitations.

Response. The Commission does not believe that it is necessary for the rule to require licensees to document timely invitations for offsite participation in exercises. NRC expects licensees will do so on their own initiative. Experience has shown that cooperative interactions between licensee and offsite authorities generally are quite productive.

Issue 23. Proposed 10 CFR 72.32(a)(12)(ii) and (b)(12)(ii): Participation of offsite response organizations in exercises should be required.

Response. The Commission believes that this requirement would be unnecessary in that experience shows almost all offsite authorities that are invited to participate in exercises do participate without being required to do so.

Issue 24. Proposed 10 CFR 72.32(a)(12)(i): For the ISFSI, communications checks with offsite response organizations should be conducted quarterly, not semiannually,

and onsite exercises conducted annually, not biennially.

Response. The Commission disagrees due to the very low probability of offsite consequences resulting from potential accidents at these facilities in conjunction with the low probability of a significant accident occurring.

Issue 25. Proposed 10 CFR 72.32(a)(3) and (b)(3): These provisions limit the accident classification levels to an alert for the ISFSI and a site area emergency for the MRS. For both facilities, the accident classification system should include the general emergency. This might be necessary in cases of radiological sabotage.

Response. The Commission disagrees. An essential element of a General Emergency is that “A release can be reasonably expected to exceed EPA Protective Action Guidelines exposure levels off site for more than the immediate site area.” As previously discussed, NRC studies have concluded that the maximum offsite dose would be less than 1 rem which is within the EPA Protective Action Guides.

Issue 26. Proposed 10 CFR 72.32(a)(8) and (b)(8): Time limits ought to be established for notifying offsite response organizations and the NRC. An appropriate time limit is 15 minutes.

Response. The Commission has established a reasonable time limit for notification which has proven to be adequate in the past. “The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.”

Issue 27. Proposed 10 CFR 72.32(a)(15) and (b)(15)(i): The phrase, “and other organizations capable of augmenting the planned onsite response have been identified” should be modified to include the requirement that arrangements should be made (such as letters of agreement) with any organizations so identified.

Response. The Commission believes that offsite response organizations will respond in the event of an actual emergency in order to protect the health and safety of the public. Therefore, the Commission does not believe that this requirement would be necessary.

Issue 28. On page 29797 of the proposed rule, first column, the statement is made: “As a result of the above evaluation, the Commission is proposing that the emergency planning licensing requirements for part 72 licensees be similar to those requirements already codified in 10 CFR 70.22 for other part 70 licensees.” Should this statement also include 10

CFR 70.24 (Criticality Accident requirements)? Because the racking arrangement of spent fuel storage is changing in a manner that places spent fuel assemblies closer than in the past because of storage space needs, criticality accidents possibilities might increase, especially in the dry cell storage.

Response. The Commission disagrees. Criticality is only a concern during a wet loading and unloading evolution. Additionally, such activities would not be expected to occur under a 10 CFR part 72 ISFSI license and, therefore, there is no basis to change 10 CFR part 72 criticality requirements.

Issue 29. Because 10 CFR part 72 contains no language that parallels 10 CFR 50.54(x), we recommend that something similar to it be considered as part of this rulemaking. During the operating life of an Independent Spent Fuel Storage Facility or Monitored Retrievable Storage Facility, it is possible that an unanticipated situation may arise where the most correct action would be one that is not allowed by the license or technical specifications. The writers of 10 CFR part 50 foresaw this eventuality and allowed a licensee to:

Take reasonable action that departs from license condition or a technical specification in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.

Although we never expect to invoke this option, prudence dictates that we should thoughtfully plan and develop procedures that allow for the possibility of low probability events where deviating from a technical specification or any other license condition is the most correct action. Adding this provision to the part 72 rule gives us a legal basis to include it in our procedures. As a licensee under both 10 CFR parts 50 and 72, we feel that similar language has been useful under 10 CFR part 50 for developing procedures, and that it would be equally useful under 10 CFR part 72.

Response. The Commission agrees. The final rule reflects this comment.

Issue 30. In § 72.32(a)(12)(ii), the proposed rule states that the licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. We disagree with this provision since it excludes our emergency planning (EP) staff from the critique. The individuals who develop the plans are EP experts. These are exactly the individuals that should critique the

exercises. As the rule is written, we would have to maintain an EP expert on staff whose only EP job function would be to critique exercises. At all other times, this individual would have to remain at arms length from the EP program. A better use of resources would be to allow individuals from the EP staff to be a part of the team that critiques exercises.

Response. The Commission agrees and has modified the final regulation to state "the licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise."

Issue 31. In § 72.32(a)(14), NRC has proposed that an applicant for an ISFSI submit the proposed emergency plan to offsite response organizations (which are expected to respond in case of an onsite accident) 60 days in advance of submittal to NRC. Comments would then be forwarded to the NRC upon submittal of the ISFSI application. This requirement should be deleted as the current licensing process for review and approval of an ISFSI license affords all parties a sufficient amount of time to review and comment on the licensee's entire application to include the emergency plan. Furthermore, licensees have gained sufficient experience from the operating nuclear power plant environment to recognize the benefits of working with the offsite authorities in order to ensure adequacy of an emergency plan and its implementation. A requirement to instruct applications to do as much is unnecessary.

Response. The Commission disagrees. The Commission believes that requiring participation by offsite organizations in the development of the emergency plan significantly helps establish coordination and working relationships between the principals.

Issue 32. In § 72.32(a)(15), NRC proposed to require that the licensee of an ISFSI provide for a "near-site emergency facility" for State and local staff. This requirement should be deleted as it implies that an offsite emergency response facility is needed, when in fact NRC's own studies in NUREG-1140 demonstrate that the consequences of an accident at an ISFSI are insignificant in terms of the public health and safety. Furthermore, NRC has generally affirmed this conclusion through its evaluation of Defueled Emergency Plans for nuclear power plants which are permanently defueled but continue to store spent fuel on site (Possession Only License). The emergency plans for these facilities are appropriately focused on the onsite aspects of emergency response, while maintaining the ability to notify offsite

authorities such as the fire, police, and medical personnel who play a role in addressing onsite emergency response. No licensee-provided "near-site" facility is needed for such offsite authorities to implement their onsite emergency planning responsibilities.

Response. The Commission agrees. This change is incorporated in the final regulation.

Issue 33. Mitigation of consequences (§ 72.32(a)(5)): The NRC proposes that the licensee describe those actions which would be taken to mitigate the consequences of each type of accident. This requirement should be revised to require that the licensee describe the response actions for each classification of emergency.

Response. The regulation already requires, "Information to be communicated. A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC."

Issue 34. Responsibilities (§ 72.32(a)(7)): The term "offsite response organizations" should be revised to "offsite authorities" in recognition of the findings of NUREG-1140, i.e., the consequences of accidental releases associated with the operation of an ISFSI would not exceed the EPA Protective Action Guidelines. The term "offsite response organizations" connotes a need for formal offsite components to the onsite emergency plan and thus, an offsite emergency response plan. This interpretation would be inconsistent with the conclusions of NUREG-1140 which postulated the worst-case accidents involving an ISFSI and found that the consequences were insignificant in terms of public health and safety. To preclude misinterpretation, the term "offsite authorities" should be used.

Response. The Commission disagrees that the term "offsite response organizations" connotes the need for "formal offsite components" to the onsite emergency plan. The term simply refers to those offsite organizations that may be needed to respond to an emergency (medical, fire department, police, etc.)

Issue 35. Information to be communicated (§ 72.32(a)(9)): As concluded by the NRC in NUREG-1140, the consequences of the postulated worst-case accident involving an ISFSI are insignificant in terms of public health and safety. Therefore, because no offsite protective actions are needed, this requirement should be revised to require that the licensee communicate

only onsite facility status to offsite authorities.

Response. The Commission disagrees with the suggestion to delete the requirement that licensees notify offsite organizations of recommended protective actions. The Commission acknowledges that the consequences of a postulated worst-case accident involving an ISFSI are insignificant in terms of public health and safety. Nonetheless, the Commission also recognizes the need for offsite organizations to be informed by licensees so that, in the event of an accident, protective actions may or may not need to be taken.

Issue 36. Notification and coordination (§ 72.32(a)(8)): As recommended for § 72.32(a)(7), the term "offsite response organizations" should be revised to "offsite authorities."

Response. See Commission Response to Issue 34.

Issue 37. Types of accident (§ 72.32(a)(2)): The NRC has proposed that the licensee identify the "types of accidents" that could occur at an ISFSI installation "for which protective actions may be needed." This requirement should be deleted because the analysis of potential accidents and their consequences, as documented in NUREG-1140, demonstrates that there are no accidents for which protective actions for the public may be needed. Furthermore, even if there were such accidents, the emergency plan is not the appropriate document for a description of the types of accidents that could occur. As is similarly done for operating reactors, any discussion on types of accidents is contained in the ISFSI Safety Analysis Report that supports the license application. Therefore, the licensee should be required only to identify the classification of accidents in 10 CFR 72.32(a)(3) and, in general, response to those classifications, as is similarly required for operating plants.

Response. The Commission agrees to delete the words "* * * for which protective action may be needed." Nonetheless, the Commission believes that licensees should identify the types of accidents in the emergency plan in the same manner as part 30, 40, and 70 licensees have done since 1989.

Issue 38. At a minimum, NRC should revise the term "protective actions" to "protective measures." The term "protective actions," as used by operating reactors, connotes the need for an offsite emergency response plan. In the case of an ISFSI, there is no need for an offsite emergency response plan because the consequences of potential accidents which can occur will not exceed the EPA Protective Action

Guidelines. Furthermore, the term "protective measures" is now commonly used by Possession Only License holders to distinguish between onsite and offsite needs. Therefore, to preclude misinterpretation, we recommend that the term "protective measures" be used.

Response. The Commission disagrees. There is nothing in the emergency planning licensing regulations for ISFSI that requires, implies, specifies or connotes the need for a formal offsite emergency response plan.

Issue 39. Changing the proposed 10 CFR part 72 to require local involvement in the creation of the emergency response plan and require funding of local emergency planning and preparedness activities directly attributable to the additional and above ordinary risk of Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities is appropriate, given the above ordinary risk such facilities present to the local government units in their vicinity.

Response. In view of the requirements in this rule, regarding the potential involvement by local governments, a licensee may have an incentive based on its own self-interest to assist in providing manpower, items of equipment, or other resources that the local governments may need but are themselves unable to provide. The Commission believes that the question of whether the NRC should or could require a licensee to contribute to the expenses incurred by local governments in assisting in emergency planning and preparedness is beyond the scope of the rule.

Issue 40. Provisions should be included in the proposed rule to exempt Independent Spent Fuel Storage Installations (ISFSI) with very limited radionuclide inventories from the emergency planning requirements. This is best accomplished by establishing certain threshold values for the radiological consequences of potential accidents below which exemption can be granted.

Response. The Commission does not agree. An ISFSI is licensed to store specific inventories of radionuclides. The requirements focus on the emergency planning licensing requirements of an ISFSI, not the amount of fuel that may or may not be stored in an individual ISFSI during a specific time period.

Issue 41. 10 CFR 72.32(a)(12)(ii) specifies that the licensee critique each exercise using individuals not having direct responsibility for the plan. This regulation, while well intentioned, is burdensome, costly, and does not allow

the personnel with emergency preparedness knowledge to identify and correct potential weaknesses. This statement seems to satisfy the requirements for independent review, not exercise performance (i.e., similar to § 50.54(t)).

Response. See Commission Response to Issue 30.

Issue 42. 10 CFR 72.32(a) does not define the term, "site of a nuclear power reactor." Does the term mean the owner controlled area, the site boundary, or protected area? Based on the definition of the term, the regulations could require some licensees that build ISFSI near their nuclear power plants but not on the site to have two emergency plans established. Consideration should be given to clarifying terms in order to avoid this problem especially since nuclear power plant emergency plans are substantially more extensive than ISFSI emergency plans.

Response. The Commission agrees. The final regulations states "not located within the exclusion areas as defined in 10 CFR Part 100 of a nuclear power reactor."

Issue 43. The 10 CFR Part 70 emergency planning requirements (§ 70.22), which served as the model for the proposed rule, includes a provision for relief based on potential radioactive consequences. It contains the option of demonstrating that the consequences of an accidental release are below certain levels and thereby eliminated the need for emergency preparedness. We recommend that a parallel provision be included in the proposed rule for the ISFSI. This would enable ISFSI with minimal radioactive sources to avoid the substantial costs associated with emergency preparedness which would far outweigh the negligible benefit to the safety of the public.

Response. See Commission Response to Issue 40.

Issue 44. Unfortunately, the public is not very reassured by the idea that the only offsite emergency planning that the discussion on the MRS cites is that the operators of the facility should have current phone numbers of offsite emergency services. Nor is the public very reassured that the NRC asserts that the maximum off-site exposure from an MRS would be 1 rem. If this were true, there is a legitimate concern about being subjected to radiation equivalent to 50 additional chest x-rays—presumably without any notification or disclosure, let alone opportunity to avoid such irradiation. However, it does not seem credible that one could gather together the highest concentration of radioactivity on the planet and assert that there will be virtually no risk of

exposure. This overlooks, at the very least, the potential for malicious attack on the facility from the air, such as the United States has engaged in wiping out "strategic targets" in other countries.

Response. A more accurate characterization of the offsite emergency planning component for an MRS is as follows: "(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC;" and "(9) Information to be communicated. A brief description of the types of information on facility status; radioactive release; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC." and "(10) * * * special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel;" and "(12) * * * The licensee shall invite offsite response organizations to participate in the annual exercises."

Additionally, the offsite emergency planning component for an MRS includes:

- (i) Arrangements for requesting and effectively using offsite assistance on site have been made.
- (ii) Provisions exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.
- (iv) Adequate methods, systems, and equipment for assessing and monitoring actual potential consequence of a radiological emergency condition are available.
- (vi) Radiological Emergency Response Training has been made available to those offsite who may be called to assist in an emergency onsite.

(16) Arrangements made to provide information to the public.

Also, see the Commission's response to Issue 46.

Issue 45. The discussion of MRS emergency planning indicates the dependence upon offsite emergency responders. The fact that individuals would be called upon to respond to radiological crises without any special training, without protective gear and equipment is deeply disturbing to local community officials with whom we have reviewed this proposal. The full liability for dealing with emergency situations should reside with the operators of such a facility and those who are specially trained and understand that they are at risk, and are compensated on that basis. Dependence upon untrained local responders in a true emergency would amount to human sacrifice, and is not acceptable.

Response. The regulations allow for extensive coordination, communication, and training of offsite response organizations. (See Commission Response to Issue 19.)

Issue 46. Although the MRS will represent the largest concentration of irradiated fuel, to date, in one location, the U.S. Nuclear Regulatory Commission has recently proposed a rule that would waive any offsite emergency planning or evacuation, in direct contradiction to the promises of safety to prospective host communities.

Response. In the final NRC Generic Environmental Impact Statement on the handling and storage of light water reactor fuel,⁵ it is stated that

* * * To be a potential radiological hazard to the general public, radioactive materials must be released from a facility and dispersed offsite. For this to happen:

- The radioactive material must be in a dispersible form

- There must be a mechanism available for the release of such materials from the facility, and

- There must be a mechanism available for offsite dispersion of such released material.

Although the inventory of radioactive material contained in 1000 MTHM of aged spent fuel may be on the order of a billion curies or more, very little is available in a dispersible form; there is no mechanism available for the release of radioactive materials in significant quantities from facility; and the only mechanism available for offsite dispersion is atmosphere dispersion * * *

Furthermore, NRC has conducted Safety Evaluations on many different storage systems. Those studies included evaluations of the effects of corrosion, handling accidents such as cask drops and tipovers, explosions, fires, floods, earthquakes, and severe weather conditions. As documented in each of those Safety Evaluation Reports (SER), NRC was not able to identify any design basis accident that would result in the failure of a confinement boundary. However, to provide a conservative bounding analysis of the threat to the public health and safety, the failure of the confinement barrier was postulated. As discussed in each of the SERs and again in the response to Issue 48 the consequences of this postulated failure do not result in an increased risk to the public health and safety.

In the environmental assessment for 10 CFR part 72,⁶ the accident judged the most severe was the failure of a packaged fuel element. In this analysis, the accident involves the failure of a storage system containing 1.7 MTHM. The postulated individual doses are presented in Table 1.⁷

TABLE 1.—TOTAL DOSE TO AN INDIVIDUAL AS A RESULT OF A FUEL CANISTER FAILURE ACCIDENT AT A SURFACE STORAGE INSTALLATION (MREM)

Pathway	Skin	Total body	Thyroid	Lung
Air Submersion	1.0×10^{-1}	1.1×10^{-3}	1.1×10^{-3}	1.1×10^{-3}
Inhalation		1.2×10^{-5}	1.1×10^{-2}	7.3×10^{-5}
Total	1.0×10^{-1}	1.1×10^{-3}	1.2×10^{-2}	1.1×10^{-3}

Note: The maximum individual is defined as a permanent resident at a location 1600 meters southeast of the stack with a time-integrated atmospheric dispersion coefficient (E/Q of 1.5×10^{-4} sec/m³). The accident involves failure of a fuel canister containing approximately 1.7 MTHM.

Since the time these calculations were performed, the storage canisters have increased in capacity, and today the capacity of the largest approved design is approximately 9 MTHM. However, because dose varies directly with

inventory, when the totals are increased by a factor of ten, they are still a very small fraction of the 300 mrem/yr⁸ an individual receives from natural background radiation, and is below the EPA protective action guides.

Also see the Commission's response to Issues 19 and 48.

Issue 47. It is premature for the Commission to make a rule with regard to emergency planning for an MRS. We also agree with others who point out

⁵NUREG-0575 Vol. 1 sec. 4.2.2 Safety and Accident Considerations.

⁶NUREG-1092 Environmental Assessment for part 72 "Licensing Requirements for Independent Spent Fuel and High-Level Radioactive Waste."

⁷NUREG-1092 Table 2.2.4-2

⁸NRCP Report No. 94.

that the MRS is a significantly different facility than an ISFSI—for two reasons. The first is the difference in the amount of irradiated fuel that would be present at the site: it is four orders of magnitude greater at an MRS than a single reactor site's load. The second is the fact that the MRS, according to the most common model described, would be a repackaging center for the waste. This industrial scale handling of high-level waste and irradiated fuel raises many safety and release concerns.

Response. See the Commission's response to Issues 18 and 48.

Issue 48. The commenter believes that the massive concentration of irradiated fuel at the reactor sites should have been the occasion for revisiting the emergency planning for each nuclear power plant. The irradiated fuel inventory on site far exceeds the amount of radioactive material contained within the reactor core at any one time. The fact that irradiated fuel has been forced to accumulate at reactor sites is no reason to now dismiss that greater radiological hazard that it poses to the populace and the environment. A rulemaking on the ISFSI in our view should include; "at reactor site facilities" and examine the current emergency planning with regard to the potential for much greater releases in the event of sabotage or natural disaster.

Response. For there to be a significant environmental impact resulting from an accident involving the dry storage of spent nuclear fuel, a significant amount of the radioactive material contained within a cask must escape its packaging and enter the biosphere. There are two primary factors that protect the public health and safety from this event. The first is the design requirements for the cask that are imposed by regulation. The regulatory requirements, as codified in the 10 CFR part 72, have sufficient safety margins so that, during normal storage cask handling operations, off-normal events, adverse environmental conditions, and severe natural phenomena, the casks will not release a significant part of its inventory to the biosphere. Furthermore, the cask must be designed to provide confinement safety functions during the unlikely but credible design basis events, as required in § 72.122(b). In addition, § 72.122(h)(i) requires that the fuel clad be protected against degradation that leads to gross rupture, and § 72.122(1) requires that the fuel be retrievable. During the design evaluation process, these provisions received careful consideration. These general design criteria place an upper bound on the energy a cask can absorb before the fuel is damaged. No credible dynamic events

have been identified that could impart such significant amounts of energy to a storage cask after that cask is placed at the ISFSI.

Additionally, there is a second factor which does not rely upon the cask itself but considers the age of the spent fuel and the lack of dispersal mechanisms. There exists no significant dispersal mechanism for the radioactive material contained within a storage cask. In the case of an operating nuclear power plant, the dispersal mechanism for radioactive material in the spent fuel is either derived from the heat produced during the fission process or the decay heat which exists in the short period immediately following shutdown. During these times, the potential exists for an accident that could cause the fuel cladding to fail. However, emergency systems exist at every power plant to protect against just such an occurrence. On the other hand, spent fuel stored in an ISFSI is required to be cooled for at least 1 year. Based on the design limitations, the majority of spent fuel is cooled greater than 5 years. At this age, spent fuel has a heat generation rate that is too low to cause significant particulate dispersal in the unlikely event of a cask confinement boundary failure. Therefore, the consequences of worst-case accidents involving an ISFSI located on a reactor site would be significantly less than those accidents involving the reactor. Therefore, current reactor emergency plans adequately provide for the protection of the public from the ISFSI located at or near reactor sites.

Issue 49. An ISFSI not at a reactor warrants site-specific emergency planning that includes evacuation of surrounding population at least as stringent as nuclear reactor licensing. For example, specific provisions should be included requiring: (1) Coordination of the on-site plan with the off-site local and state emergency management agencies; (2) training of the potential off-site responders; and (3) public information/education for local populations.

Response. The Commission does not agree that as a general matter emergency plans for an ISFSI must include evacuation planning. Nonetheless the Commission agrees that the specific provisions mentioned in the comment should be and are specifically included in the proposed and final emergency planning licensing requirements for ISFSI and MRS. See 10 CFR 72.32(a) (10), (12), (14), and (16) and 10 CFR 72.32(b) (10), (12), (14), (15), and (16).

Issue 50. There is no mention of financing the affected jurisdictions to provide the requisite resources to

support the planning, operations, response, exercises, recovery and equipment requirements defined as necessary in the plan for off-site agency response.

Response. See the Commission's response to Issue 39.

Issue 51. The NRC should defer to premature the proposed § 72.32(b), which would establish emergency planning requirements for MRS's, until a final MRS design has been selected. Until it is decided whether such facilities would be equivalent, in the Commission's words, to "a large industrial facility" or merely to "a warehouse operation," there is no rational basis to determine the appropriate level of emergency planning requirements.

Response. See Commission Response to Issue 18.

Issue 52. NRC should prepare a full environmental impact statement before issuing any emergency response guidelines. The potential for environmental damage from accidents during the transportation, storage and repackaging of spent fuel rods cannot even be calculated until DOE determines whether to develop a universal cask or a dual purpose cask for transportation/storage/disposal of spent fuel rods. Until this very preliminary decision is made, there is no way of determining what level of activity (or the dangers from that activity) will actually take place at an MRS facility. NRC's response to this uncertainty, "to mandate a minimum level of offsite response capability" does not address potential and very real risks to the public.

Response. The Commission disagrees. The Commission stated the following in the preamble to the proposed rule:

The Commission has determined under the National Environmental Policy Act of 1969, as amended, the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment; and therefore, an environmental impact statement is not required. The rule would not affect the probability or the size of accidental radioactive releases. It might in some cases reduce the doses people near the facility site could receive. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. The environmental assessment and finding of no significant impact are contained in Section 4.3 of NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and

Other Radioactive Material Licensees.”⁹ Single copies are available upon written request from NRC Distribution Section, Office of Administration, USNRC, Washington, DC 20555.

Issue 53. An MRS facility poses far greater potential risk to the public than even a nuclear power plant simply by virtue of the quantity of spent fuel rods to be stored. For example, a nuclear power plant stores no more than 1 metric ton of spent fuel while the MRS facility is authorized to store from 10,000 to 15,000 metric tons of spent fuel. Therefore, licensing procedures and requirements for an MRS facility must be more strict than even those required for a nuclear power plant.

Response. See the Commission's Response to Issue 48.

Issue 54. The NRC must require off-site evacuation planning for MRS facilities. NRC estimates that “the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would likely not exceed 1 rem effective dose equivalent” cannot be defended because of the uncertainties. Without an EIS, NRC must at a minimum assume that an MRS facility poses an equal danger to the public as a nuclear reactor does. CCNS therefore recommends that NRC minimally require a 10-mile radius evacuation plan for MRS facilities.

Response. See the Commission's Response to Issue 48.

Issue 55. The NRC's requirement to “notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers” is completely unrealistic. The current applicants for MRS facilities are all Indian Nations whose reservations are located in rural areas with no emergency response training, equipment or expertise for handling nuclear emergencies. At a minimum, NRC's proposed rule must require training and equipment for both emergency response personnel as well as hospital facilities.

Response. See the Commission's Response to Issue 19.

Additionally, the Commission received 21 suggested editorial changes to the wording of the proposed regulations. Those changes that improved or clarified the proposed regulations were incorporated into the final regulations. Those suggested

changes in wording that departed from the Commission's original intent were not incorporated into the final regulations.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required. The rule does not affect the probability or the size of accidental radioactive releases. It might in some cases reduce the doses people near the facility site could receive. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. The environmental assessment and finding of no significant impact are contained in 4.3 of NUREG-1140, “A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees.”

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0132.

Public reporting burden for this collection of information is estimated to average 625 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for further reducing reporting burden to the Information and Records Management Branch, T-6F33, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0132), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the accident scenarios considered by the Commission as well as the costs and

benefits of actions considered. The analysis is available by contacting Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301-415-6534).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 6059b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

The final rule requires the development and implementation of emergency plans by licensees who are authorized to possess significant amounts of radioactive material. These companies do not fall within the definition of a small business found in the Small Business Act, 15 U.S.C. 632, or within the small business size standards set forth in 13 CFR part 121. The final rule will affect three (3) licensees. Two licensees hold 10 CFR part 50 licenses and are required to comply with the provisions respecting emergency plans set out in part 50. Thus, the final rule does not impose a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act of 1980.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109 and 10 CFR 72.62, do not apply to this rule change because these amendments do not involve any provisions which would impose backfits as defined in § 50.109(a)(1) or in 10 CFR 72.62. The final rule does not change or impose additional requirements on any ISFSI currently licensed under 10 CFR part 72. For existing ISFSIs at reactor sites, the final rule continues the current option to comply with 10 CFR 50.47. For G.E. Morris, the only ISFSI licensed under 10 CFR part 72 for operation away from a reactor site, the licensee currently is required to have emergency response capabilities that will comply with this rule. Therefore, inasmuch as the rule imposes no requirements on any part 50 facility and imposes no new or different requirements on any part 72 facility after a license has been issued, a backfit analysis is, therefore, not required for this final rule.

List of Subjects in 10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

⁹Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402-9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555-0001.

For the reasons set out in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C 552, and 553, the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 295 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.W. 5851); sec. 102, Pub. L. 91-190, 83 Stat. (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 935 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203; 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 96 Stat. 2230 (42 U.S.C. 10153) and 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. Section 72.32 is revised to read as follows:

§ 72.32 Emergency Plan.

(a) Each application for an ISFSI that is licensed under this part which is: Not located on the site of a nuclear power reactor, or not located within the exclusion area as defined in 10 CFR part 100 of a nuclear power reactor, or located on the site of a nuclear power reactor which does not have an operating license, or located on the site of a nuclear power reactor that is not authorized to operate must be accompanied by an Emergency Plan that includes the following information:

(1) *Facility description.* A brief description of the licensee's facility and area near the site.

(2) *Types of accidents.* An identification of each type of radioactive materials accident.

(3) *Classification of accidents.* A classification system for classifying accidents as "alerts."

(4) *Detection of accidents.* Identification of the means of detecting an accident condition.

(5) *Mitigation of consequences.* A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(6) *Assessment of releases.* A brief description of the methods and equipment to assess releases of radioactive materials.

(7) *Responsibilities.* A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) *Notification and coordination.* A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.¹⁰

(9) *Information to be communicated.* A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(10) *Training.* A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

¹⁰These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other State or Federal reporting requirements.

(11) *Safe condition.* A brief description of the means of restoring the facility to a safe condition after an accident.

(12) *Exercises.* (i) Provisions for conducting semiannual communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Radiological/Health Physics, Medical, and Fire drills shall be conducted annually. Semiannual communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercise.

(ii) Participation of offsite response organizations in biennial exercises, although recommended, is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) *Hazardous chemicals.* A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499, with respect to hazardous materials at the facility.

(14) *Comments on Plan.* The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) *Offsite assistance.* The applicant's emergency plans shall include a brief description of the arrangements made for requesting and effectively using offsite assistance on site and provisions that exist for using other organizations capable of augmenting the planned onsite response.

(16) Arrangements made for providing information to the public.

(b) Each application for an MRS that is licensed under this part and each application for an ISFSI that is licensed

under this part and that may process and/or repackage spent fuel, must be accompanied by an Emergency Plan that includes the following information:

(1) *Facility description.* A brief description of the licensee facility and area near the site.

(2) *Types of accidents.* An identification of each type of radioactive materials accident.

(3) *Classification of accidents.* A classification system for classifying accidents as "alerts" or "site area emergencies."

(4) *Detection of accidents.* Identification of the means of detecting an accident condition.

(5) *Mitigation of consequences.* A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers on site, and a description of the program for maintaining the equipment.

(6) *Assessment of releases.* A brief description of the methods and equipment to assess releases of radioactive materials.

(7) *Responsibilities.* A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) *Notification and coordination.* A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.¹¹

(9) *Information to be communicated.* A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be

given to offsite response organizations and to the NRC.

(10) *Training.* A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

(11) *Safe condition.* A brief description of the means of restoring the facility to a safe condition after an accident.

(12) *Exercises.* (i) Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Radiological/Health Physics, Medical, and Fire Drills shall be held semiannually. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises.

(ii) Participation of offsite response organizations in the biennial exercises, although recommended, is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) *Hazardous chemicals.* A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499, with respect to hazardous materials at the facility.

(14) *Comments on Plan.* The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) *Offsite assistance.* The applicant's emergency plans shall include the following:

(i) A brief description of the arrangements made for requesting and effectively using offsite assistance on

site and provisions that exist for using other organizations capable of augmenting the planned onsite response.

(ii) Provisions that exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.

(iii) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(iv) Adequate methods, systems, and equipment for assessing and monitoring actual or potential consequences of a radiological emergency condition are available.

(v) Arrangements are made for medical services for contaminated and injured onsite individuals.

(vi) Radiological Emergency Response Training has been made available to those offsite who may be called to assist in an emergency onsite.

(16) Arrangements made for providing information to the public.

(c) For an ISFSI that is:

(1) located on the site, or

(2) located within the exclusion area as defined in 10 CFR part 100, of a nuclear power reactor licensed for operation by the Commission, the emergency plan required by 10 CFR 50.47 shall be deemed to satisfy the requirements of this section.

(d) A licensee with a license issued under this part may take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part) in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.

Dated at Rockville, MD, this 16th day of June 1995.

For the U.S. Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 95-15285 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Filing of Complaints and Supplements to Complaints Alleging Unfair Practices in Import Trade

AGENCY: International Trade Commission.

¹¹ These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other State or Federal reporting requirements.

ACTION: Final rulemaking.

SUMMARY: The Commission hereby revises its final rules for investigations and related proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The revised rules require section 337 complainants to file equal numbers of confidential and nonconfidential copies of their complaints and to file them on the same date. The revised rules impose the same requirements for filing supplements to complaints. The revised rules are being adopted in response to concerns expressed by interested members of the public and for the purpose of streamlining the administrative process by improving the speed and efficiency of the Commission's distribution and service of nonconfidential copies of complaints, including supplements thereto.

EFFECTIVE DATE: In accordance with the 30-day advance publication requirement imposed by 5 U.S.C. 553(d), the effective date of these revised rules is July 24, 1995.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3061. Hearing-impaired individuals can obtain information concerning the proposed rulemaking by contacting the Commission's TDD terminal at 202-205-1810.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1994, the Commission published final rules for 19 CFR part 210.¹ Final rule 210.4(f)(3)(i) imposed a 10-day deadline for section 337 complainants to file nonconfidential copies of their complaints after the confidential version was filed.

On March 29, 1995, the Commission published a notice containing proposed revisions to the part 210 rules which would require section 337 complainants to file equal numbers of confidential and nonconfidential copies of their complaints and to file them on the same date.² The Customs and International Trade Bar Association (CITBA) was the only organization that responded to the notice of proposed rulemaking. The CITBA expressed approval of the proposed rules.

Section-by-Section Analysis of the Revised Rules

The commentary that preceded the proposed rules in the notice of proposed

rulemaking published on March 29, 1995, constitutes the preamble to the revised rules set forth in the present notice.³

Revised rule 210.52(e) is identical to proposed rule 210.52(e). Revised rules 210.4(f)(3), 210.5(a), and 210.8(a) differ slightly from the correspondingly numbered proposed rules. The proposed rules required complainants to file nonconfidential copies of their complaints concurrently with the confidential copies. Upon further reflection, the Commission decided that revised rules 210.4(f)(3), 210.5(a), and 210.8(a) should impose the same requirements for the filing of supplements to section 337 complaints.

Regulatory Analysis

The revised rules adopted in this notice do not meet the criteria enumerated in section 3(f) of Executive Order 12866,⁴ and therefore do not constitute a significant regulatory action for purposes of that Executive Order.

In accordance with the Regulatory Flexibility Act,⁵ the Commission hereby certifies⁶ that the revised rules set forth in this notice are not likely to have a significant economic impact on a substantial number of small business entities. The Commission notes that most section 337 complainants are not small businesses. Moreover, the revised rules merely increase the number of copies that section 337 complainants must file for two categories of submissions: Complaints and supplements to complaints.

In any event, the Regulatory Flexibility Act is inapplicable to this rulemaking, because it is not one for which a notice of proposed rulemaking was required under 5 U.S.C. 553(b) or another statute.⁷ Though the Commission chose to publish such a notice on March 29, 1995, the revised rules are "agency rules of procedure or practice" and thus were exempt from the notice requirement imposed by 5 U.S.C. 553(b).

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Imports, and investigations, Investigations of unfair acts and unfair methods of competition in U.S. import trade.

For the reasons set forth in the preamble, the U.S. International Trade Commission hereby amends part 210 of

title 19 of the Code of Federal Regulations as follows:

PART 210—ADJUDICATION AND ENFORCEMENT

1. The authority citation for part 210 continues to read as follows:

Authority: 19 U.S.C. 1333, 1335, and 1337.

2. Paragraph (f)(3) of § 210.4 is revised to read as follows:

§ 210.4 Written submissions; representations; sanctions.

* * * * *

(f) *Specifications; filing of documents.*

* * *

(3)(i) If a complaint, a supplement to a complaint, a motion for temporary relief, or the documentation supporting a motion for temporary relief contains confidential business information as defined in § 201.6(a) of this chapter, the complainant shall file nonconfidential copies of the complaint, the supplement to the complaint, the motion for temporary relief, or the documentation supporting the motion for temporary relief concurrently with the requisite confidential copies, as provided in § 210.8(a) of this part.

(ii) Persons who file the following submissions that contain confidential business information covered by an administrative protective order, or that are the subject of a request for confidential treatment, must file nonconfidential copies and serve them on the other parties to the investigation or related proceeding within 10 calendar days after filing the confidential version with the Commission:

(A) A response to a complaint and all supplements and exhibits thereto;

(B) All submissions relating to a motion to amend the complaint or notice of investigation; and

(C) All submissions addressed to the Commission.

Other sections of this part may require, or the Commission or the administrative law judge may order, the filing and service of nonconfidential copies of other kinds of confidential submissions. If the submitter's ability to prepare a nonconfidential copy is dependent upon receipt of the nonconfidential version of an initial determination, or a Commission order or opinion, or a ruling by the administrative law judge or the Commission as to whether some or all of the information at issue is entitled to confidential treatment, the nonconfidential copies of the submission must be filed within 10 calendar days after service of the Commission or administrative law judge document in question. The time periods

¹ 59 FR 39020, Part II (Aug. 1, 1994), as corrected by 59 FR 64286 (Dec. 14, 1994) and amended by 59 FR 67622 (Dec. 30, 1994).

² 60 FR 16087 (Mar. 29, 1995).

³ See the Section-by-Section analysis of the proposed rules, which appeared in 60 FR at 16087-16088.

⁴ 58 FR 51735, Oct. 4, 1993.

⁵ 5 U.S.C. 601 note.

⁶ Pursuant to 5 U.S.C. 605(b).

⁷ See 5 U.S.C. 603(a).

for filing specified in this paragraph apply unless the Commission, the administrative law judge, or another section of this part specifically provides otherwise.

* * * * *

3. Paragraph (a) of § 210.5 is revised to read as follows:

§ 210.5 Confidential business information.

(a) *Definition and submission.* Confidential business information shall be defined and identified in accordance with § 201.6 (a) and (c) of this chapter. Unless the Commission, the administrative law judge, or another section of this part states otherwise, confidential business information shall be submitted in accordance with § 201.6(b) of this chapter. In the case of a complaint, any supplement to the complaint, and a motion for temporary relief filed under this part, the number of nonconfidential copies shall be prescribed by § 210.8(a) of this part.

* * * * *

4. Paragraph (a) of § 210.8 is revised to read as follows:

§ 210.8 Commencement of preinstitution proceedings.

(a) *Upon receipt of complaint.* A preinstitution proceeding is commenced by filing with the Secretary a signed original complaint and the requisite number of true copies. The complainant shall file 14 confidential copies of the complaint, 14 nonconfidential copies, plus one confidential copy and one nonconfidential copy for each person named in the complaint as violating section 337 of the Tariff Act of 1930, and one nonconfidential copy for the government of each foreign country of any person or persons so named. The same requirements apply for the filing of a supplement to the complaint. If the complainant is seeking temporary relief, the complainant must file 14 confidential copies of the motion, 14 nonconfidential copies, plus one additional confidential copy and one additional nonconfidential copy of the motion for such relief for each proposed respondent, and one nonconfidential copy for the government of the foreign country of the proposed respondent. The additional copies of the complaint and motion for temporary relief for each proposed respondent and the appropriate foreign government are to be provided notwithstanding the procedures applicable to a motion for temporary relief, which require service of the complaint and motion for temporary relief by the complainant.

* * * * *

5. Paragraph (e) of § 210.52 is revised to read as follows:

§ 210.52 Motions for temporary relief.

* * * * *

(e) If the complaint, the motion for temporary relief, or the documentation supporting the motion for temporary relief contains confidential business information as defined in § 201.6(a) of this chapter, the complainant must follow the procedure outlined in §§ 210.4(a), 210.5(a), 201.6 (a) and (c), 210.8(a), and 210.55 of this part.

Issued: June 13, 1995.

By Order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 95-15179 Filed 6-21-95; 8:45 am]

BILLING CODE 7020-02-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

RIN 0960-AE18

Evidence Required for Duplicate Social Security Number Card

AGENCY: Social Security Administration (SSA).

ACTION: Interim rule.

SUMMARY: We intend to conduct a pilot project in as many as 100 social security offices throughout the country and in as many as 10 teleservice centers to encourage people who need a duplicate social security number (SSN) card to contact us by phone to request the duplicate card. We are, therefore, providing an exception to our rule in 20 CFR 422.107(c) on the corroborative evidence of identity a person must submit when he or she applies for a duplicate SSN card.

EFFECTIVE DATE: This regulation is effective on June 22, 1995. Since this rule grants a limited exemption from certain requirements for issuing duplicate SSN cards, the 30-day delay in effectuating rules, as provided by 5 U.S.C. 553(d), does not apply. We will consider any comments we receive by August 21, 1995 and will publish a revised final regulation if public comments warrant it.

ADDRESSES: Comments on this rule should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov," or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments

received may be inspected during these same hours by making arrangements with the contact person shown below.

Organizations and individuals desiring to submit comments on the information collection requirements under the "Paperwork Reduction Act" should submit them to the Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attention: Desk Officer for SSA.

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in Wordperfect and will remain on the FBB during the comment period.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8471.

SUPPLEMENTARY INFORMATION: Section 205(c)(2)(B)(ii) of the Act provides that an applicant for an SSN must submit such evidence as may be necessary for the Commissioner of Social Security (the Commissioner) to establish the applicant's age, citizenship or alien status, and true identity. Under this provision, the applicant must also provide evidence that the Commissioner may need to determine which (if any) social security account number has previously been assigned to the applicant. This provision was added to the Act in 1972 (Pub. L. 92-603) to provide instructions for assigning SSNs. In addition, Pub. L. 92-603 amended section 208 of the Act to provide penalties for anyone who knowingly, willfully, and with intent to deceive uses an SSN that was obtained with false information. See S. Rep. No. 92-1230 and H.R. Rep. No. 92-1605, 92d Cong., 2d Sess. (1972).

The amendments were in response to the expanding use of the SSN and a concern about its misuse. To implement the amendments, we increased the security of the procedures we used for assigning an SSN. We also published regulations at 20 CFR 422.107(c) which, among other things, require that each applicant for an original, duplicate, or corrected SSN card must submit documentary evidence of identity. The primary purposes for requiring an applicant for a duplicate SSN card to furnish this evidence are to avoid assigning more than one SSN to a person and to ensure that the card is issued to the correct person.

A recent report by SSA's Inspector General (IG), entitled "SSA Field Office Visitor Workload," indicates that approximately one-third of the many people who visit Social Security offices each day are there to request a new or duplicate social security number card. The IG report suggested that individuals could request duplicate cards by telephone or by mail, thereby significantly reducing the volume of people (approximately 8 million per year) who visit social security offices to apply for original or duplicate SSN cards.

In a continuing attempt to furnish better service to the public, we will conduct a pilot project which will enable certain individuals to apply by phone for a duplicate SSN card without having to complete and sign an application and take or mail their identity documents to a social security office. We plan to conduct the pilot project in as many as 100 social security field offices throughout the country and in as many as 10 teleservice centers.

We are modifying the evidentiary requirements for identity in 20 CFR 422.107(c) for this project. This will enable us to forgo requesting the corroborative documentary evidence of identity for some applicants who request a duplicate SSN card. The pilot project will apply to U.S. citizens born in the U.S. and to U.S. citizens born outside the U.S. who have previously presented to us evidence of U.S. citizenship. The applicant must be the number holder or a parent applying on behalf of his or her minor child number holder.

Because of our enhanced ability to screen by electronic means an applicant requesting a duplicate SSN card, we believe that we may be able to eliminate or at least modify our current requirement that all persons applying for a duplicate SSN card must submit a signed application and corroborative documentary evidence of identity. If we find that this evidence and the signed application are no longer needed in some kinds of cases, we should be able to provide more efficient, more economical, and more convenient service to the public, while at the same time reducing the need for many people to apply in person at social security offices for duplicate SSN cards. We will also be helping businesses with their wage reporting obligations by ensuring that their employees have their correct social security numbers.

With our current electronic systems capability, we believe that under the interim rule we will be able to comply with the evidentiary requirements of the Act. We can compare the information

the number holder gives when requesting a duplicate card with the information already available in our electronic records. The true number holder should know the information contained in these electronic records. Therefore, we believe it is reasonable to treat the conforming information provided by the person requesting a duplicate SSN card as acceptable evidence of his or her identity within the meaning of section 205(c)(2)(B)(ii) of the Act. If our records do not confirm the information provided by the applicant, we will require that he or she submit corroborative evidence of identity and a signed application either by mail or in person to an SSA office.

If we decide to discontinue this project concerning duplicate SSN cards, we will rescind this interim rule. If we decide to expand this project, we will publish a notice in the **Federal Register**. If we decide to implement the procedures nationally, a regulation reflecting this decision will be promulgated. However, before deciding to expand the test or implement nationally, we will conduct a study to determine whether the pilot procedures provide sufficient safeguards against fraud.

These special pilot procedures for issuance of duplicate SSN cards will not apply to aliens who request such duplicate cards, because pursuant to 20 CFR 422.107(e), aliens must also furnish proof of alien status as well as identity. Under section 205(c)(2)(B)(i)(I) of the Act, the Commissioner must take affirmative measures to assure that SSNs are assigned to certain aliens. Aliens are assigned SSNs when they are lawfully admitted to the U.S. as permanent residents, when they are admitted to the U.S. for a temporary period of time with authorization to work, or when they receive authorization to work subsequent to entry into the United States. The Immigration and Naturalization Service issues to aliens documentation of their lawful admission and requires that an alien keep that documentation on his or her person at all times. Generally, aliens are required to submit that documentation to us as proof of alien status. Therefore, aliens will need to take their INS documents to SSA to apply for a duplicate SSN card.

These special procedures also do not apply to requests for corrected SSN cards because the corrected information cannot be verified on our records. Additionally, these procedures do not apply to (1) foreign-born U.S. citizens who have not already submitted evidence of citizenship; (2) a person applying on behalf of another if the

applicant is not a parent applying on behalf of his or her minor child; and (3) people whose address is an in-care-of address, a post office box, general delivery, or a suite.

Regulatory Procedures

Justification for Interim Rule Without Proposed Rule

We are publishing this amendment to the regulations as an interim rule instead of a proposed rule. The Social Security Administration follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures in this instance because the use of such procedures to provide a very limited exception to the evidentiary requirements that must be met when a person requests a duplicate SSN card notice is unnecessary. This is a minor rule of limited applicability that should be of little interest to the general public. We do not believe that there is significant public interest in whether persons in areas where this pilot project will be conducted who request duplicate SSN cards must supply signed applications and supportive documentary evidence of their identities when they request duplicate SSN cards.

Executive Order (E.O.) 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under E.O. 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the issuing of duplicate SSN cards to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This regulation contains a new reporting burden in section 422.107. As required by section 3507 of the Paperwork Reduction Act of 1980, we

will submit a copy to the Office of Management and Budget for its review.

Public reporting burden for this collection of information is estimated to average 2 minutes per response. This includes the time it will take to read the instructions, gather the necessary facts, and provide the information. If you have any comments or suggestions on this estimate, write to the Social Security Administration, ATTN: Reports Clearance Officer, 1-A-21 Operations Building, Baltimore, MD 21235.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006 Supplemental Security Income)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure; Freedom of information; Organization and functions (Government agencies); Social Security.

Dated: June 14, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, Subpart B of Part 422 of 20 CFR Chapter III is amended as follows:

PART 422—ORGANIZATION AND PROCEDURES

1. The authority citation for Subpart B is revised to read as follows:

Authority: Secs. 205, 702, and 1143 of the Social Security Act; 42 U.S.C. 405, 902, and 1320b-13.

2. Section 422.107 is amended by adding language at the end of paragraph (c), to read as follows:

§ 422.107 Evidence requirements.

(c) *Evidence of identity.* * * * An applicant for a duplicate social security number card who is a U.S. citizen and who resides in an area where the Social Security Administration is conducting a pilot project on the issuance of duplicate cards will not be required to submit a signed application or corroborative documentary evidence of identity if the Social Security Administration is able to compare information provided by the applicant with information already in its records and, on the basis of this comparison, decides that corroborative documentary evidence is not needed to establish the applicant's identity. These special procedures do not apply to foreign-born U.S. citizens who have not already submitted evidence of citizenship to us; to a person applying on behalf of another if the applicant is not a parent applying on behalf of his or her minor

child; and to people whose address is an in-care-of address, a post office box, general delivery, or a suite.

* * * * *

[FR Doc. 95-15301 Filed 6-21-95; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 46 new animal drug applications (NADA's) from Sanofi Animal Health, Inc., to Rhone Merieux, Inc.

EFFECTIVE DATE: June 22, 1995.

FOR FURTHER INFORMATION CONTACT:

Judith M. O'Haro, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1737.

SUPPLEMENTARY INFORMATION: Sanofi Animal Health, Inc., 7101 College Blvd., Overland Park, KS 66210, has informed FDA that it has transferred ownership of, and all rights and interests in, the following approved NADA's to Rhone Merieux, Inc., 7101 College Blvd., Overland Park, KS 66210:

NADA number	Drug name
006-623	Caparsolate
008-422	Seleen Suspension
010-092	Gallimycin-50P Premix
010-346	Combuthal Powder
012-123	Gallimycin-100, Gallimycin LA Injectable, Erythro-200 Injection
033-157	Spectam Scour Halt
035-157	Gallimycin Poultry Formula
035-455	Gallimycin-36/Dry
035-456	Gallimycin 36 Sterile
038-241	Erythro +ZOA+ARS Acid
038-242	Erythro +AMP+ETHO
038-624	Pro-Gallimycin-10
038-661	Spectam Water Soluble Concentrate
040-040	Spectam Injection
041-955	Erythromycin Premix
044-756	Butatron Tablets
045-416	Butatron Injection
048-287	Oxytetracycline-50 Injection

NADA number	Drug name
055-002	Chloramphenicol Injection
055-059	Viceton Tablets
065-275	Penicillin VK Filmtab
065-276	Veesyn Granules for Oral Solution
065-383	Procaine G Penicillin Mastitis Tubes
065-384	Procaine G Penicillin Mastitis Tubes
093-483	Spectam Injectable
093-515	Spectam Tablets
095-218	Dexamethasone Tablets
097-397	Syncro-Mate-B
098-379	Cystorelin Injectable
100-128	Medipak Tylan 10
101-690	Erythro-100 Injectable
102-656	Gallimycin Poultry Formula
107-506	Carbam Tablets & Film Coated Tablets
113-510	Equipalazone
118-032	Carbam Palatabs
118-979	Butatron Oral Gel
119-142	Injectable Iron 10%
120-615	Sustain III Calf & Cattle Bolus
123-815	Dexamethasone Sodium Phosphate Injection
124-241	Oxytocin Injection
126-504	Nitrozone Ointment
128-089	Dexamethasone Sterile Solution
134-930	Syncro-Mate-B
200-050	Neomycin 325 Soluble Powder
200-103	Penicillin G Potassium
200-147	Gentamicin Sulfate Injection

Accordingly, FDA is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor. The drug labeler code assigned to Sanofi Animal Health, Inc., is being retained as the drug labeler code for Rhone Merieux, Inc.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Sanofi Animal Health, Inc." and by alphabetically adding a new entry for "Rhone Merieux, Inc., 7101 College Blvd., Overland Park, KS 66210.....050604" and in the table in paragraph (c)(2) in the entry for "050604" by removing the sponsor name "Sanofi Animal Health, Inc." and adding in its place "Rhone Merieux, Inc., 7101 College Blvd., Overland Park, KS 66210".

Dated: June 12, 1995.

George A. Mitchell,

Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 95-15241 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1307, 1309, 1310, 1313 and 1316

[DEA No. 112F]

RIN 1117-AA23

Implementation of the Domestic Chemical Diversion Control Act of 1993 (PL 103-200)

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations to implement the Domestic Chemical Diversion Control Act of 1993 (DCDCA or Act). These regulations provide additional safeguards to prevent and detect the diversion of listed chemicals by illicit drug manufacturers.

EFFECTIVE DATE: August 21, 1995. Persons seeking registration must apply on or before October 5, 1995 in order to continue their business pending final action by DEA on their application.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307-7297.

SUPPLEMENTARY INFORMATION: On October 13, 1994, DEA published a notice of proposed rulemaking (NPRM) entitled *Implementation of the Domestic Chemical Diversion Control Act of 1993* (Pub. L. 103-200) in the **Federal Register** (59 FR 51887). The NPRM proposed to amend Title 21, Code of

Federal Regulations (21 CFR) by adding a new Part 1309, relating to the registration of List I chemical manufacturers, distributors, retail distributors, importers and exporters; revising Parts 1310 and 1313 to amend the recordkeeping and reporting requirements for domestic as well as import/export activities; adding new procedures with respect to the exemption of regulated chemicals, including chemical mixtures and certain drug products that are marketed under the Food, Drug and Cosmetic Act; adding new procedures regarding "brokers", "traders" and "international transactions"; and revising Part 1316 with respect to DEA's administrative inspection authority.

There are two additional notices that DEA has published in the **Federal Register** that relate to these regulations. On March 24, 1994 an Interim Rule notice entitled *Provisional Exemption From Registration for Certain List I Chemical Handlers* was published in the **Federal Register** (59 FR 13881). This rule grants a temporary exemption from the registration requirements of the DCDCA. The exemption will remain in effect for any person who files with DEA a properly completed application for registration on or before October 5, 1995, until such a time as DEA takes final action on their application.

DEA published the second notice in the **Federal Register** on December 9, 1994, (59 FR 63738) withdrawing, for further study, Sections 1310.05(d) and 1310.06(h), which relate to manufacturer reports, and Sections 1310.12 and 1310.13, which relate to the exemption of chemical mixtures. The regulations regarding manufacturer reports and the exemption of chemical mixtures will be re-proposed at a later date following additional consultations with the affected chemical industry. Formal comments that were received in response to the NPRM regarding the withdrawn sections will be given consideration in the redrafting of a new proposal for these sections.

Regulatory Flexibility and Small Business Impact

As required under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), DEA addressed in detail regulatory flexibility and small business impact as part of the NPRM. The NPRM discussed the difficulty in determining with certainty how many persons would continue to handle regulated ephedrine drug products, and thus be subject to the regulations. This is due to the rapidly changing market affected by state laws restricting the availability of ephedrine, the availability of alternative

products that are not regulated, and the intent of the DCDCA to eliminate sales to clandestine laboratories.

No comments were received on this topic or on DEA's estimate of the number of persons that will seek registration to handle regulated ephedrine drug products. Since publication of the NPRM, the number of states taking restrictive actions has increased. DEA is now aware of twelve states that have enacted laws controlling regulated ephedrine drug products, eleven by making them either prescription only or a controlled substance, and one by setting state licensure and reporting requirements. An additional four states have recently introduced legislation to control the products, three by making them a controlled substance and one by setting age restrictions and requiring reports of all transactions. In addition, DEA has documented that several wholesalers of regulated ephedrine drug products, the primary source of supply for retail distributors, have changed their product line to combination products that are not subject to regulation. Finally, recent reports that the Food and Drug Administration (FDA) is considering moving ephedrine into the prescription drug category may further influence persons handling ephedrine drug products. Under the circumstances, the number of retail distributor applicants under the DCDCA remains uncertain.

In the NPRM, DEA was able to provide relief from the chemical registration requirement for persons handling regulated ephedrine drug products who are already registered with DEA to engage in similar activities with controlled substances. In addition, manufacturers of List I chemicals for internal use, with no subsequent distribution or exportation of the chemical, were also exempted from the registration requirement. Both of these proposals have been retained in the final rule. Consideration was also given to exempting retail distributors from the registration, recordkeeping and reporting requirements. However, such an action would negate the purpose of the DCDCA by leaving a significant portion of the sales of regulated ephedrine drug products unregulated.

Following submission and review of the comments concerning the proposed regulations, two requirements were identified which DEA determined could be removed from the final regulations to reduce the impact of compliance without compromising the control goals of the DCDCA. The proposals were the reporting requirement for sales of 375 dosage units or more of regulated ephedrine drug products (proposed

Section 1310.05(a)(2)) and the restrictions regarding employment of certain persons (proposed Section 1309.72). These proposals have been removed from this final rule.

Further, DEA also determined that the proposed regulations regarding manufacturer reporting (proposed Sections 1310.05(d) and 1310.06(h)) and the exemption of chemical mixtures (proposed Sections 1310.12 and 1310.13) could result in a greater than anticipated burden and, possibly, a duplicative reporting requirement, for the industry. The requirements were withdrawn by notice published in the **Federal Register** on December 9, 1994, (59 FR 63738) for reassessment and redrafting following consultation with the affected industry.

DEA has endeavored, within the requirements and goals of the DCDCA, to limit the impact of these regulations on the affected industry. In some instances, as discussed below in the responses to specific comments (e.g., separate registration for separate locations) the specific language of the DCDCA established the parameters of control. However, in other areas, DEA has been able to take additional steps in these final regulations to lessen the impact of the DCDCA's requirements on the affected industry, while simultaneously carrying out the chemical control mandate of the DCDCA.

Public Comments

A total of 22 comments were submitted regarding the proposed rulemaking. While the general tone of the comments was supportive of efforts to prevent the flow of listed chemicals to clandestine laboratories, the commentors raised a number of concerns regarding certain provisions of the proposed regulation, as follows:

Registration

1. Six comments objected to the requirement in Section 1309.23 that a separate registration be obtained for each location at which List I chemical activities are carried out. The comments suggested that DEA allow companies to obtain a single registration, with attendant fee, for multiple locations or activities.

The law is specific on this point. The DCDCA requires that a separate registration be obtained at each location at which List I chemicals are distributed, imported or exported (21 U.S.C. 822(e) and 958(h)). In accordance with the requirements of the Office of Management and Budget (OMB) Circular A-25, the costs associated with

each preregistration investigation must be recovered through the fees.

2. Four comments noted the chemical industry's practice of storing and distributing chemicals from independently operated warehouses. These commentors questioned how the requirement for separate registrations for separate locations would apply to these warehouses.

In reviewing these comments, there appeared to be some confusion regarding whether the commentors were addressing warehouse activities that involved List I chemicals or List II chemicals. In subsequent contacts with commentors for clarification, DEA was able to specifically identify only two comments involving warehouses that handle List I chemicals. DEA wishes to clarify that the registration requirement applies only to the distribution, importation or exportation of List I chemicals. Activities involving List II chemicals are not subject to the registration requirement.

With respect to the use of independently owned warehouses, the Controlled Substances Act (CSA), as amended, exempts warehousemen from the registration requirement (21 U.S.C. 802(39), 822(c)(2), and 957(b)(1)(B)) for activities carried out in the normal course of their business. Instead, the person who distributes List I chemicals from independently owned warehouses must register at each location and ensure that the other chemical control requirements, including security, record keeping, reporting, etc., for their products are met while under the supervision of the non-registered warehouseman.

3. One comment questioned what procedures would apply if more than one chemical company stored and distributed chemicals from a single warehouse, and whether separate registrations, if required, would result in duplicative fees.

Each person who distributes, imports or exports a List I chemical must register with DEA for each separate location at which such activities are carried out. If more than one person independently carries out such activities at the same location, then each person must obtain a registration for their activities at that location. Each application would be subject to a separate pre-registration investigation that would require, among other things, a visit to the applicant's business offices (which in this circumstance would be separate from the warehouse). Therefore, the fees would not be duplicative. The fees for registration are based on the costs associated with the registration, as set forth in the NPRM. DEA's experience in

working with the chemical industry indicates this is a rare business practice with respect to List I chemicals.

4. Two comments questioned the impact that registration would have on research and development (R&D) activities that were described by the commentors as involving "very small quantities" of chemicals in mixtures that may be sent to laboratories for physical property or performance testing.

The DCDCA does not require registration for research or development activities, only distributing, importing or exporting. Thus laboratories performing such testing would not be subject to the registration requirement for research and development activities. Further, the products referenced by the commentors are chemical mixtures, therefore, they will be subject to the chemical mixture exemption regulations that are being developed. It is DEA's intent, to the extent possible, that the distribution of such mixtures to laboratories for testing be exempted from the registration requirement.

5. Two comments expressed concern that manufacturers would be forced to suspend their activities due to delays in the approval of their registrations.

Early in the regulatory development process, DEA recognized that the demands of establishing a new registration program would require a transitional procedure that did not disrupt ongoing legitimate business activities. As a consequence, DEA published a notice in the **Federal Register** on March 24, 1994 (59 FR 13881), that provides a temporary exemption from the registration requirement. Any person who submits a proper application for registration on or before October 5, 1995 will remain exempt from the registration requirement until DEA takes final action regarding their application. There is no cause for current legitimate manufacturers to be concerned that they will have to suspend their activities pending issuance of their registrations.

6. Two comments questioned how the registration requirement would apply to manufacturers of non-regulated chemicals that contain List I chemicals as either unintentional by-products or impurities.

This concern has been raised with respect to the application of chemical diversion control requirements on a number of occasions in the past. The manufacture of a List I chemical as an unintentional by-product during the manufacture of another chemical does not require registration, so long as the List I chemical is not distributed or exported. As to the presence of List I

chemicals as impurities in non-regulated products, it is DEA's understanding that the impurities are present only in trace amounts. It is not DEA's intent that the distribution of non-regulated chemicals that contain trace amounts of List I chemicals as unintentional by-products of the manufacturing process be subject to the registration requirement.

7. One comment suggested that if the Food and Drug Administration (FDA) removes ephedrine from over-the-counter status, the primary reason for, and economic foundation of, the registration program would be removed through the elimination of the need to register and collect fees from the estimated 10,000 retail distributors that handle ephedrine drug products that are regulated as List I chemicals. The comment urged that if such a circumstance occurs, DEA should withdraw the registration requirement.

The DCDCA requires registration of any person who distributes, imports or exports any List I chemical and was not intended solely to control the distribution of regulated ephedrine drug products. DEA's chemical control program, including registration, applies to all List I chemicals. The potential elimination of the need to register retail distributors of ephedrine drug products would not change the purpose of the program. Secondly, the FDA action is only speculative at this time, and its subsequent impact, if passed, is even more uncertain. However, OMB Circular A-25 requires the review of all fees every two years. Under this review, any major change in the registration population would require reassessment of the fees for other registrants. Any change to the fees would be subject to notice and comment.

8. One comment characterized the registration of sites that manufacture List I chemicals as unnecessary, since it duplicates existing site reporting requirements under other Federal laws. A second comment questioned the need for a pre-registrant investigation and fee for high volume manufacturers.

The DCDCA requires persons who distribute, import or export a List I chemical to obtain a registration and requires that DEA determine if such registration would be in the public interest pursuant to the criteria set forth in Section 823(h) of the Act. The pre-registrant investigation must be conducted to determine whether the criteria regarding the public interest are met. The required fee is assessed to cover the costs of that investigation.

9. One comment requested clarification of the exemption from chemical registration found in Section

1309.25, for companies that are registered with DEA to handle controlled substances.

A controlled substance registrant that distributes, imports or exports a List I chemical, other than a regulated drug product that may be marketed or distributed under the Food, Drug, and Cosmetic Act (FDCA), must obtain a chemical registration for such activities. The exemption in Section 1309.25 applies only to controlled substance registrants who engage in similar activities with a regulated drug product that may be marketed or distributed under the FDCA. The exemption is directed at the approximately 65,000 pharmacies and others who are already registered with DEA under the CSA, so as to avoid a duplicative registration requirement on these registrants. In response to this comment and to help clarify the provisions of the exemption, Section 1309.25 has been amended to specify that the exemption applies only to activities involving drug products that may be marketed or distributed under the Food, Drug and Cosmetic Act, that are regulated as List I chemicals pursuant to Section 1310.01(f)(1)(iv).

10. One comment expressed concerns that the regulations will require persons who handle exempt chemical mixtures containing List I chemicals to register.

The proposed Section 1310.13, which was withdrawn for re-publication at a later date, established that the chemical mixtures exempted by the Administrator would not be subject to the registration, recordkeeping, reporting, and import/export provisions of the Act. It is DEA's intention that the same provision will be included in the new chemical mixture exemption regulations. In the interim, chemical mixtures will be exempt until the exemption regulations are promulgated. However, creation of a chemical mixture for the purpose of evading the requirements of the CSA is a violation of CSA (21 U.S.C. 843(a)(8)), subject to a penalty of imprisonment for not more than four years, a fine of \$30,000, or both.

Brokers and Traders

11. Three comments found the definition of "broker" and "trader" in Sections 1310.01(k) and 1313.02(m) to be overly broad. Specifically, subparagraph (3) of each section may be read as covering any action, whether deliberate or inadvertent, that results in an international transaction taking place, i.e., a chemical distributor provides a foreign customer with a list of possible sources for a chemical that the distributor does not carry, thus "bringing together a buyer and a seller."

DEA agrees that the definition is not intended to cover such circumstances. DEA has amended the wording of subparagraph (3) of the definition to read "Fulfilling a formal obligation to effect the transaction by bringing together a buyer and seller, a buyer and transporter, or a seller and transporter; or by receiving any form of compensation for so doing."

12. One comment requested clarification of whether import brokers and freight forwarders would be considered brokers or traders.

Brokers and traders are defined as U.S. based persons who assist in arranging international transactions in listed chemicals; the definition does not apply to domestic transactions, including imports into or exports from the United States. Further, brokers and traders, as defined, do not take possession of listed chemicals. Under the circumstances, U.S. based import brokers and freight forwarders would not be considered brokers or traders, as defined, while acting in the normal course of their business. However, it must be understood that imports, exports and distributions of listed chemicals are subject to other provisions of the CDTA and DCDCA and a regulated person is responsible for those transactions.

Security Provisions

13. Two comments questioned the appropriateness of the proposed Section 1309.72, which concerns employment of persons who have been convicted of a felony relating to controlled substances or listed chemicals or have been subject to a denial, suspension or revocation of a DEA registration. One comment raised the issue of whether the requirements violate occupational safety and health, privacy, and non-discrimination laws. The other pointed out that in the absence of the stringent security and storage requirements applied to controlled substances, a far greater number of personnel would have access to List I chemicals, such as ephedrine, thus increasing the burden required to satisfy the requirements of this section.

DEA agrees that the lack of restrictions regarding possession of List I chemicals makes it difficult to employ comprehensive screen practices for all potential employees as proposed in Section 1309.72. However, registrants must employ safeguards to prevent List I chemicals from being diverted from their businesses into the illicit traffic. DEA is, therefore, withdrawing the proposal prohibiting such employment, and in its place establishing that registrants must exercise caution in their employment practices regarding

persons who have been convicted of a felony relating to controlled substances or listed chemicals, or have been subject to denial, suspension or revocation of a DEA registration. The registrant must understand that if an employee diverts a listed chemical, the registrant may be subject to a revocation action. The registrant must assess the risks involved in employing such a person and, in the event of employment, institute procedures to limit the potential for diversion of List I chemicals by such an employee.

14. One comment requested that DEA provide comprehensive guidance regarding assessment of security measures as outlined in Section 1309.71(b).

List I chemical handlers vary greatly in size, type of business and volume handled. Under such circumstances, it would not be desirable to establish specific, inflexible security controls and procedures. The factors outlined in Section 1309.71(b) provide a general framework of elements that allow potential registrants flexibility in assessing the potential threat of diversion and to determine measures necessary to prevent diversion. DEA has made and will continue to make available additional suggestions regarding security in separate publications for the chemical industry. In addition, as set forth in Section 1309.71(c), an applicant or registrant may, following development of a proposed system of controls and procedures, submit materials and plans regarding the system to DEA for assessment.

15. One comment opposed the proposal that retailers stock ephedrine drug products that are regulated as List I chemicals behind a counter on the basis that this requirement creates a third class of drugs (Section 1309.71(a)(2)).

DEA is regulating a List I chemical, not a drug. Section 1309.71(a)(2) provides a basic security measure for a List I chemical that is known to have been diverted from both the retail and wholesale levels for the purposes of manufacturing illicit controlled substances. The section does not prohibit any person from purchasing the product or establish any restrictive requirements, such as sale by prescription only, that must be met by the purchaser. The requirement simply provides an additional means of controlling diversion without restricting public access to the product.

Section 1313.12 Requirement of 486 for Imports

16. One comment questioned the need for advance notice of importation in cases of a return of a previously exported listed chemical and suggested that manufacturers be exempted from this requirement for the return of chemicals which they exported.

DEA previously recognized, under the 1988 Chemical Diversion and Trafficking Act, that exports of listed chemicals might be rejected or otherwise undeliverable, requiring that they be returned to the U.S. exporter. Existing Section 1313.22(e) provides that exports of listed chemicals that are refused, rejected, or otherwise deemed undeliverable may be returned to the U.S. exporter of record without advance notice or a 486 form. That section requires that a written notification be submitted to DEA within a reasonable time following the return.

However, an export that has cleared foreign customs and been accepted by the foreign consignee is not subject to this exception. Any such shipments subsequently returned to the U.S. are imports, subject to all applicable requirements.

17. Two comments questioned the provisions of Section 1313.12(e). One objected that the summary reports of imports required by Section 1313.12(e) are duplicative, since DEA would already have the information available from previously filed 486 forms. The second questioned whether waiver of the advance notice requirement in Section 1313.21(f) would also mean waiver of the quarterly report in Section 1313.21(e), and suggested that DEA publish in Section 1313.21(f) a list of countries with waivers when the final rule is published.

DEA agrees that the wording of this section needed clarification. Section 1313.12(e) proposed minimized reporting procedures for export transactions in circumstances where the Administrator has waived the advance notice requirements as unnecessary for effective chemical diversion control. The comments point out that the proposed section did not specify that a 486 form need not be filed for such transactions. The section has been amended to clarify that a 486 form does not have to be submitted for exports under this section; the regulated person need only file a quarterly summary of such exports. There are presently no waivers established under Section 1313.21(f). This is a new authority granted to the Administrator by the DCDCA. Countries to which this new provision will apply will be determined

after implementation of these regulations.

18. One comment raised concerns regarding the need to file an Import 486 form when foreign customers return containers that have not been completely emptied.

DEA has long recognized the standard industry practice to allow a certain level of 'overage' in the amount of chemicals actually shipped in very large tank car/cargo ship type exports due to the difficulty to full recovery and, therefore, that containers that still contain some of the chemicals may be returned. DEA has not required that a 486 form be filed for the return of containers with such "leavings", when the amount of chemical is within normal or standard residue levels.

Exports

19. One comment noted the provisions of the DCDCA allowing the Administrator to withdraw the waiver of the advance notice requirement for all exports of listed chemical to a specified country. The commenter asked if, in the future, existing waivers might be withdrawn. The comment also questioned whether other countries have agreed to comply with the same rules.

The DCDCA allows DEA to require, by regulation, that all exports of a listed chemical to a specified country be subject to the advance notice requirement, regardless of regular customer status, if it is determined that advance notification of export is necessary for compliance with international agreements regarding chemical controls or is necessary to support chemical control programs in other countries. It is possible that the waiver of the advance notice requirement for exports of a listed chemical to a specified country may be withdrawn. However, DEA would be required to publish a notice in the **Federal Register** regarding the withdrawal of the waiver and provide an opportunity for public comment. With respect to the question of compliance with these rules by other countries, all parties to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 are required to be able to provide advance notice of exports of List I chemicals, if requested by the importing country.

20. One comment requested clarification of the term "reasonable cause" as used in Section 1313.21(g) and of the responsibilities of exporters to know the laws of the countries to which chemicals are exported.

The term "reasonable cause" applies to transactions that, due to circumstances such as an unusual method of payment or shipping or quantities inconsistent with stated uses, raise concerns that a customer or a transaction is not what it is represented to be. Exporters should understand the nature of their legitimate transactions and should make informed decisions as to whether the circumstances surrounding a specific transaction give rise to questions regarding the legitimacy of the transaction. As to the laws of other countries, the exporter is expected to make a reasonable effort to determine the validity of a transaction prior to exporting a listed chemical to a country. DEA has published information regarding foreign import restrictions in the **Federal Register**. If further restrictions become known to DEA, they also will be published in the **Federal Register**.

21. One comment objected to the general export reporting requirements as burdensome and unnecessary.

The general export reporting requirements were established by the CDTA in 1988, and have been in continuous use for over five years without presenting any significant obstacles to legitimate chemical exports. As noted in the preamble to the NPRM, the export controls have been successful in significantly reducing the availability of U.S. chemicals to clandestine laboratories in foreign countries.

Definition of Therapeutically Insignificant

22. Two comments argued that the U.S. Food and Drug Administration (FDA) is the appropriate authority for determining whether a product contains therapeutically significant quantities of a medicinal ingredient and that FDA's tentative final monograph for ephedrine combination products should be used as the standard for making such determinations.

At this time, the monograph is a proposed rule. FDA acknowledges that it must publish a final rule in order to actually establish a monograph. When FDA publishes the final monograph, DEA will consider use of the monograph as the determinative standard for therapeutically significant quantities of a medicinal ingredient under the DCDCA. Until such a time, the compendiums set forth in Section 1310.01(f)(1)(iv)(A) provide additional flexibility and will be the primary standard for determining if therapeutically significant quantities of a medicinal ingredient are present in a product.

23. Two comments objected to the provision that a person applying for exemption of a product, the formulation of which is not listed in the compendiums, must submit verification from FDA that the product may be lawfully marketed under the Food, Drug and Cosmetic Act. The commentator noted that FDA does not provide such verifications.

DEA agrees and has removed that language. In its place, the person applying for the exemption must certify to DEA that the product may be lawfully marketed under the Food, Drug and Cosmetic Act.

24. One comment questioned the lack of justification for the choices of compendiums and suggested that the regulation be expanded to include any recognized authority, such as textbooks, treatises, compendia, statements of qualified experts, medical/scientific journals or clinical studies conducted by outside researchers or by a drug company.

The listed compendiums were chosen because they are readily available and are widely recognized as reliable, scientifically accurate and comprehensive listings of products that are commercially available. With respect to the additional sources of information suggested, if a product does not appear in the named compendiums, DEA has provided manufacturers an additional avenue for product exemption. A person requesting a determination from the Administrator that a product does contain therapeutically significant amounts of a certain medicinal ingredient may submit any such information that the person believes supports their request.

25. One comment suggested that wholesalers do not have the expertise to determine whether a drug meets the therapeutically significant standard. Manufacturers should be responsible for making the determination and providing notification to wholesalers that the product meets the requirements.

DEA agrees that manufacturers are responsible for determining whether a product meets the therapeutically significant standard and for notifying their customers of whether the product is, therefore, exempt from List I chemical controls. However, if a distributor has any reason to question a product, then the distributor has an obligation to attempt to determine whether the product meets the standard. If any person, wholesaler or otherwise, is unable to determine from the listed compendiums that a product meets the therapeutically significant criteria, then that person may contact the DEA for

assistance in making such a determination.

Contents of Records and Reports

26. One comment acknowledged that most of the information required by the regulations is already maintained in general business records for all transactions. The exception is the registration number of the purchaser. The comment objected that manufacturers should not be required to inquire about the registration number of the customer so long as the legitimacy of the customer is known.

DEA attempted to design the DCDCA recordkeeping requirements to be consistent with existing business records to the extent possible, as recognized by this commentator. One step in establishing the legitimacy of a customer is determining the customer's activity with the regulated chemical and, if that activity requires registration, that the customer is registered to engage in the activity. A record of the customer's registration number confirms that the supplier has taken one of the appropriate steps to determine the legitimacy of the customer and the transaction.

27. One comment noted that the disparity between the requirements for maintenance of records for controlled substances (2 years) and List I chemicals (4 years) would compel the maintenance of separate recordkeeping systems for chemical and pharmaceutical records.

Although both laws are enforced by DEA, the chemical control requirements of the CDTA and DCDCA are entirely separate from the pharmaceutical requirements under the CSA. Each law establishes different recordkeeping standards (21 U.S.C. 827 for controlled substances and 21 U.S.C. 830 for listed chemicals), and with the exception of one List I chemical (regulated ephedrine products) there is little overlap between firms required to keep records under the two laws.

28. One comment objected to the reporting requirement in Section 1310.05(a)(2) as inappropriate. The commentator suggested that establishing a specific level for what constitutes an extraordinary quantity and subjecting a registrant to civil and criminal penalties for failing to file such reports should not be a role for DEA. DEA has not set specific levels for what constitutes extraordinary quantities for controlled substances, and should not do so for OTC drug products. Further, the pharmacist counseling provision would create a third class of drugs and would limit availability of the drugs to the public, since there are many more retailers that sell the regulated

ephedrine products than there are pharmacies.

This reporting requirement was proposed with the intent of providing a clear standard with respect to reportable transactions involving regulated ephedrine drug products. However, the comments demonstrate that industry would prefer flexibility and discretion based on the circumstances of the transaction rather than a specific standard. Therefore, the proposed section 1310.05(a)(2) and related language in Section 1310.05(b) have been removed.

However, removal of the specific standard for reporting does not relieve regulated persons and registrants of the responsibility to report transactions involving an extraordinary quantity of a listed chemical. Registrants must review transactions involving the sale of regulated ephedrine drug products to individuals for personal use within the context of the established FDA guideline regarding the manner in which the products should be used and the appropriate dosing levels. In this regard, 375 dosage units of regulated ephedrine drug products within a calendar month for individual use provides a valid reference for registrants in determining whether additional efforts should be made to confirm the validity of a transaction.

Miscellaneous

29. Two comments were received questioning the use of the DEA Chemical Code Numbers set forth in Section 1310.02, rather than the familiar Chemical Abstract Services (CAS) or Harmonized Tariff System, (HTS) Numbers.

DEA has reviewed these numbering systems and determined that they were designed for other purposes and that their use could lead to confusion and jeopardize the accuracy of the information reported to DEA. In the HTS numbering system there are multiple chemicals that are assigned the same number and in the CAS numbering system that are chemicals that are assigned multiple codes. DEA has produced and made available a chemical reference guide that provides a cross reference to the CAS and HTS numbers, which will be updated to include the new Chemical Code Numbers.

With respect to the chemical codes, DEA discovered, following publication of the NPRM, that the Chemical Code Numbers assigned to Benzyl Chloride (8568) and Benzyl Cyanide (8570) were incorrect. The correct Chemical Code Number for Benzyl Chloride is 8570 and for Benzyl Cyanide is 8735. These

corrections have been made in this final order.

30. Three comments were submitted regarding the addition of new chemicals to List I or List II. The first comment questioned the addition of hydrochloric and sulfuric acid to List II without any justification. The second questioned the addition of benzaldehyde and nitroethane without specific justification of the addition or the thresholds. The third recommended that DEA continue to publish the proposed addition of any new chemicals for notice and comment and suggested that DEA hold public hearings on the proposed addition of new chemicals.

With respect to the hydrochloric and sulfuric acid, these chemicals were added to List II by final order published in the **Federal Register** on September 22, 1992 (57 FR 43615). The justification for the action was provided in the **Federal Register** notice regarding the addition of the two chemicals. With respect to nitroethane and benzaldehyde, Section 8 of the DCDCA amended Section 802(34) of the CSA to add the chemicals to List I; there addition to Section 1310.02 is simply a conforming amendment. Regarding the thresholds, benzaldehyde and nitroethane are diverted and used in clandestine laboratories for the illicit manufacture of controlled stimulants in a manner similar to other List I chemicals. These other chemicals, with the exception of ephedrine, have established threshold levels that were based on a review of data regarding the quantities distributed and used licitly, the quantities diverted and used illicitly, and the amount of each chemical necessary to synthesize a certain amount of controlled substance. DEA has reviewed the same type of data for benzaldehyde and nitroethane and found that the data supported the establishment of similar thresholds for the two chemicals. The specific thresholds of 4 kilograms for benzaldehyde and 2.5 kilograms for nitroethane were based on the licit and illicit uses of the two chemicals, and are consistent with the thresholds set for other List I chemicals used in the illicit production of controlled stimulants. Regarding the third comment, Section 1310.02 already clearly establishes that any proposed addition or deletion of chemicals from List I or List II must be published in the **Federal Register** with opportunity for public comment. It has been DEA's experience that the notice and comment procedure provides a satisfactory opportunity for affected persons to provide important information and advice regarding the proposed action. The comment period

also satisfies the compelling need for quick response while providing DEA the option to extend the comment period, should the need for additional comment arise.

31. Two comments argued that DEA cannot regulate "herb-containing dietary supplements and herbs containing Ephedra and its alkaloids" on the grounds that the products are dietary or nutritional supplements and not drugs.

The CDTA and DCDCA define and establish controls over List I and List II chemicals. Under these acts, the only exceptions to the application of regulatory controls over products containing listed chemicals are for certain drug products that are lawfully marketed under the Food, Drug and Cosmetic Act (21 U.S.C. 802(39)(A)(iv)) and for chemical mixtures. Within this context, DEA has reviewed the issue of ephedra, e.g., the entire plant or the overground portion the ephedra plant and determined that the unprocessed plant material ephedra and products containing the unprocessed plant material ephedra are not subject to the regulatory provisions of the CDTA and DCDCA. However, preparations of the ephedra plant, such as extracts and concentrates, that contain ephedrine, do fall within the definition of *chemical mixture* (21 C.F.R. 1310.01(g)), thus, they are subject to the regulations as they apply to chemical mixtures. Chemical mixtures are currently exempt from the regulatory provisions of the CDTA and DCDCA, pending promulgation of regulations concerning the exemption of chemical mixtures.

32. One comment requested clarification of what constitutes "unusual or excessive loss or disappearance of a listed chemical."

This term applies to circumstances that appear to be outside the framework of normal business occurrences. Regulated persons and registrants understand the nature of their chemical activities and should be able to make informed decisions as to whether the above term applies to conditions they may encounter and to be able to explain their decision sufficiently to convince a "reasonable person."

33. One comment requested clarification of the term transshipments. For purposes of DEA's regulations, a transshipment is an exportation of a listed chemical from one foreign country to another foreign country, which exportation transits the jurisdiction of the United States.

34. Two comments questioned the format of paragraphs (f)(1)(iv)(B) and (f)(1)(iv)(C) of Section 1310.01. The first noted that while the present format suggests independent subjects, the use

of "and" at the end of (B) implies that (C) is a subpart of (B). A second comment suggested that paragraph (f)(1)(iv)(B) should contain a reference to Section 1310.10, which sets the criteria for removal of the exemption.

DEA agrees. The two paragraphs have been redesignated as paragraphs (f)(1)(iv)(B)(1) and (f)(1)(iv)(B)(2) of Section 1310.01, and the appropriate citation to Section 1310.10 will be included. Further, in order to keep the language of the section consistent with the language of the DCDCA, the period at the end of Section

1310.01(f)(1)(iv)(A)(4) will be deleted and "; or " will be inserted in its place.

35. One comment requested clarification of the term "imminent danger" as used in the revocation provisions as uses in Section 1309.44.

The term "imminent danger", as used in Section 1309.44, refers to actions by a registrant that demonstrate a flagrant indifference to and disregard for the law and the health and safety of the public. There are no specific criteria for determining what constitutes "imminent danger". However, interested persons may wish to review the **Federal Register** for past notices of suspension of controlled substance registrations. In any action under this section related to the activities of a specific registrant, DEA will list the facts that are considered to present an imminent danger.

36. One comment requested clarification of Section 1310.01(f)(1)(ii), with specific emphasis on whether a common or contract carrier would be required to register with DEA for activities involving the delivery of a listed chemical either to or by the carrier.

Section 1310.01(f)(1)(ii) specifically excludes the delivery of a listed chemical by a common or contract carrier for carriage in the lawful and usual course of business from the definition of a regulated transaction. The common or contract carrier is not subject to the registration requirement when transporting chemicals on a registrant's behalf. The registrant remains responsible for the listed chemicals until they are delivered to and accepted by the consignee. In this regard, it is important that a registrant take reasonable measures to insure that any common or contract carrier used to ship listed chemicals to customers will provide adequate security against in-transit losses or thefts.

37. Two comments questioned the provisions in Sections 1310.11(b) and 1310.15(b), which establish recordkeeping and reporting requirements for regulated persons who

manufacture exempted drug products, on the grounds that a person who manufactures an exempted drug product is not a regulated person.

The referenced sections as well as Section 1310.13(b), were written with respect to a regulated person who also manufactures an exempted drug product. Upon further consideration, DEA has determined that regulated persons should not be required, solely because of their status as a regulated person, to keep records and make reports of transactions that would otherwise be exempted from those requirements. Sections 1310.11(b), 1310.13(b) and 1310.15(b) have been removed.

38. One comment requested clarification of Section 1309.45 and raised questions regarding procedures to be followed if an application for registration renewal form (DEA Form 510a) is not received in a timely manner.

Section 1309.45 applies only to a registrant who is subject to action by the Administrator to revoke or suspend his or her registration. If the registrant submits a renewal application within the prescribed time period and the Administrator has not issued a final order suspending or revoking the registration, then the registration is deemed to continue in effect until the Administrator issues his final order. As to renewal in circumstances other than those set out in Section 1309.45, Section 1309.32(c) establishes the procedures. DEA will mail out renewal notices to registrants approximately 60 days prior to the date of expiration. If a registrant has not received their renewal notice within 45 days of their expiration date, then a written request for a replacement form must be provided to DEA. A properly completed renewal application and fee must be received by DEA prior to the registrant's expiration date if registration is to be continued without interruption. If a registration is allowed to expire, the registrant is no longer authorized to distribute, import or export a List I chemical. DEA will mail delinquency notices to expired registrants approximately 90 days after the expiration date.

39. One comment questioned the DEA's placing priority on the completion of pre-registration investigations of non-retail firms while DEA's **Federal Register** notice of March 17, 1994 (59 FR 12562, Elimination of Threshold for Ephedrine) focused on the diversion of ephedrine tablets at the retail level. The comment also questioned why DEA has proposed steps to lessen the impact on retail distributors and yet has not specifically

proposed steps to lessen the impact on non-retail distributors.

By directing its focus at the non-retail level during the initial registration phase, DEA will identify those firms that have failed to adequately identify their customers or have been shipping to questionable retail firms. With this information, DEA can focus its initial retail investigations on the most likely sources of diversion. With respect to the second question, DEA has taken steps to limit the impact of the chemical controls on all persons. The exemption from the registration requirement in Section 1309.25 applies to any person, either retail or non-retail, registered with DEA to handle controlled substances, who also engages in activities with regulated ephedrine drug products. Further, DEA has attempted to design the chemical control requirements to be consistent with existing business practices, as noted in comment number 26 with respect to the recordkeeping requirements.

40. One comment objected to the exclusion of mail order activities from the definition of retail distribution.

As noted in the supplemental information to the NPRM, retail distributors engage in a limited activity as regulated by the DCDCA. The amounts of product distributed per transaction are generally small and sales are to individuals only. By contrast, it has been DEA's experience that mail order distributors of ephedrine drug products that are regulated deal with both individuals and businesses and the volume of sales and product can be quite large. Additionally, such firms are often less readily able to positively identify their customers. Investigations will be significantly more complex and time consuming for a mail order distributor than for a retail distributor. It is appropriate that mail order activities remain classified as distributors rather than retail distributors.

Protection of Confidential Business Information

41. Four comments expressed concern regarding the safeguarding of confidential business information (CBI) that will be collected by DEA in connection with chemical control activities. Two of the comments suggested that DEA establish specific and strong provisions regarding protection of CBI.

DEA operates national diversion control programs related to controlled substances and listed chemicals. The controlled substance program has been in effect since the early 1970's and the chemical program since the late 1980's.

In each program, DEA collects CBI in the course of investigations and required reporting. With respect to the chemical program, the release of CBI that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4) (FOIA), is governed by Section 830(c) of the CSA (21 U.S.C. 830(c)) and the Department of Justice procedures set forth in 28 CFR 16.7.

Section 830(c) provides that information collected under Section 830 that is protected from disclosure under Exemption 4 may only be released in circumstances related to the enforcement of controlled substance or chemical laws, customs laws, or for compliance with U.S. obligations under treaty or international agreements. The Department of Justice procedures establish that if a FOIA request is received for release of information that is protected under Exemption 4, the submitter of the protected information must be notified of such a request, given an opportunity to object to the disclosure and allowed to provide justification as to why the information should not be disclosed.

In addition to the statutory and regulatory requirements, DEA has established internal guidelines governing the handling of CBI, including provisions that the material be maintained in locked containers, that access to the information be on a need-to-know basis, and that any disclosure under Section 830 be made only pursuant to a non-disclosure agreement by the receiving party.

This regulation has been drafted and reviewed in accordance with Executive Order 12866, Section 1(b), Principals of Regulation. The DEA has determined that this rule is a significant regulatory action under Executive Order 12866, Section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

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

List of Subjects

21 CFR Part 1307

Drug traffic control.

21 CFR Part 1309

Administrative practice and procedure, Drug Traffic Control, Security measures, List I and List II chemicals.

21 CFR Part 1310

Drug Traffic Control, Reporting Requirements, List I and List II chemicals.

21 CFR Part 1313

Drug Traffic Control, Imports, Exports, Transshipment and in-transit shipments, List I and List II Chemicals.

21 CFR Part 1316

Administrative practice and procedure, Drug Traffic Control, Research, Seizures and forfeitures.

For the reasons set out above, 21 CFR Parts 1307, 1309, 1310, 1313 and 1316 are amended as follows:

PART 1307—[AMENDED]

1. The authority citation for part 1307 continues to read as follows:

Authority: 21 U.S.C. 821, 822(d), 871(b), unless otherwise noted.

2. Section 1307.03 is revised to read as follows:

§ 1307.03 Exceptions to regulations.

Any person may apply for an exception to the application of any provision of parts 1301–1313, or 1316 of this chapter by filing a written request stating the reasons for such exception. Requests shall be filed with the Administrator, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537. The Administrator may grant an exception in his discretion, but in no case shall he be required to grant an exception to any person which is not otherwise required by law or the regulations cited in this section.

1. 21 CFR Part 1309 is added to read as follows:

PART 1309—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, IMPORTERS AND EXPORTERS OF LIST I CHEMICALS

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Modification, Transfer and Termination of Registration

1309.61 Modification in registration.

1309.62 Termination of registration.

1309.63 Transfer of registration.

Security Requirements

1309.71 General security requirements.

1309.72 Felony conviction; employer responsibilities.

1309.73 Employee responsibility to report diversion.

Authority: 21 U.S.C. 821, 822, 823, 824, 830, 871(b), 875, 877, 958.

General Information

§ 1309.01 Scope of Part 1309.

Procedures governing the registration of manufacturers, distributors, importers and exporters of List I chemicals pursuant to Sections 102, 302, 303, 1007 and 1008 of the Act (21 U.S.C. 802, 822, 823, 957 and 958) are set forth generally by those sections and specifically by the sections of this part.

§ 1309.02 Definitions.

(a) The term *Act* means the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951).

(b) The term *hearing* means any hearing held pursuant to the part for the

granting, denial, revocation, or suspension of a registration pursuant to sections 303 and 304 of the Act (21 U.S.C. 823-824).

(c) The term *person* includes any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity.

(d) The term *register* and *registration* refer only to registration required and permitted by sections 302 and 1007 of the Act (21 U.S.C. 822 and 957).

(f) The term *registrant* means any person who is registered pursuant to either section 303 or section 1008 of the Act (21 U.S.C. 823 and 958).

(g) The term *retail distributor* means a distributor whose List I chemical activities are restricted to the sale of drug products that are regulated as List I chemicals pursuant to Section 1310.01(f)(1)(iv), directly to walk-in customers for personal use.

(h) Any term not defined in this section shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or in Sections 1310.01 and 1313.02 of this chapter.

§ 1309.03 Information; special instructions.

Information regarding procedures under these rules and instructions supplementing these rules will be furnished upon request by writing to the Drug Enforcement Administration, Chemical Operations Section, Office of Diversion Control, Washington, D.C. 20537.

Fees for Registration and Reregistration

§ 1309.11 Fee amounts.

(a) For each initial registration to manufacture for distribution, distribute, import, or export, the applicant shall pay a fee of \$595 for an annual registration.

(b) For each reregistration to manufacture for distribution, distribute, import, or export, the registrant shall pay a fee of \$477 for an annual registration.

(c) For each initial registration to conduct business as a retail distributor the applicant shall pay an application processing fee of \$7 and an investigation fee of \$248, for an annual registration.

(d) For each reregistration to conduct business as a retail distributor the registrant shall pay a fee of \$116.

§ 1309.12 Time and method of payment; refund.

(a) For each application for registration or reregistration to manufacture for distribution, distribute, import, or export, the applicant shall pay the fee when the application for

registration or reregistration is submitted for filing.

(b) For retail the distributor initial applications, the applicant shall pay the application processing fee when the application for registration is submitted for filing. The investigation fee shall be paid within 30 days DEA notifies the applicant that the preregistration investigation has been scheduled.

(c) For retail distributor reregistration applications, the registrant shall pay the fee when the application for reregistration is submitted for filing.

(d) Payments should be made in the form of a personal, certified, or cashier's check or money order made payable to "Drug Enforcement Administration." Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. These application fees are not refundable.

Requirements for Registration

§ 1309.21 Persons required to register.

(a) Every person who distributes, imports, or exports any List I chemical, other than those List I chemicals contained in a product exempted under § 1310.01(f)(1)(iv), or who proposes to engage in the distribution, importation, or exportation of any List I chemical, shall obtain annually a registration specific to the List I chemicals to be handled, unless exempted by law or pursuant to §§ 1309.24 through 1309.27. Only persons actually engaged in such activities are required to obtain a registration; related or affiliated persons who are not engaged in such activities are not required to be registered. (For example, a stockholder or parent corporation of a corporation distributing List I chemicals is not required to obtain a registration.)

(b) Every person who distributes or exports a List I chemical they have manufactured, other than a List I chemical contained in a product exempted under § 1310.01(f)(1)(iv), or proposes to distribute or export a List I chemical they have manufactured, shall obtain annually a registration specific to the List I chemicals to be handled, unless exempted by law or pursuant to §§ 1309.24 through 1309.27.

§ 1309.22 Separate registration for independent activities.

(a) The following groups of activities are deemed to be independent of each other:

- (1) Retail distributing of List I chemicals;
- (2) Non-Retail distributing of List I chemicals;
- (3) Importing List I chemicals; and
- (4) Exporting List I chemicals.

(b) Every person who engages in more than one group of independent activities shall obtain a separate registration for each group of activities, unless otherwise exempted by the Act or §§ 1309.24 through 1309.26, except that a person registered to import any List I chemical shall be authorized to distribute that List I chemical after importation, but no other chemical that the person is not registered to import.

§ 1309.23 Separate registration for separate locations.

(a) A separate registration is required for each principal place of business at one general physical location where List I chemicals are distributed, imported, or exported by a person.

(b) The following locations shall be deemed to be places not subject to the registration requirement:

(1) A warehouse where List I chemicals are stored by or on behalf of a registered person, unless such chemicals are distributed directly from such warehouse to locations other than the registered location from which the chemicals were originally delivered; and

(2) An office used by agents of a registrant where sales of List I chemicals are solicited, made, or supervised but which neither contains such chemicals (other than chemicals for display purposes) nor serves as a distribution point for filling sales orders.

§ 1309.24 Exemption of agents and employees.

The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his or her business or employment.

§ 1309.25 Exemption of certain controlled substance registrants.

(a) The requirement of registration is waived for any person who distributes a product containing a List I chemical that is regulated pursuant to § 1310.01(f)(1)(iv), if that person is registered with the Administration to manufacture, distribute or dispense a controlled substance.

(b) The requirement of registration is waived for any person who imports or exports a product containing a List I chemical that is regulated pursuant to § 1310.01(f)(1)(iv), if that person is registered with the Administration to engage in the same activity with a controlled substance.

(c) The Administrator may, upon finding that continuation of the waiver would not be in the public interest, suspend or revoke a person's waiver

pursuant to the procedures set forth in §§ 1309.43 through 1309.46 and 1309.51 through 1309.57. In considering the revocation or suspension of a person's waiver, the Administrator shall also consider whether action to revoke or suspend the person's controlled substance registration pursuant to 21 U.S.C. 824 is warranted.

(d) Any person exempted from the registration requirement under this section shall comply with the security requirements set forth in Sections 1309.71–1309.73 and the recordkeeping and reporting requirements set forth under Parts 1310 and 1313 of this chapter.

§ 1309.26 Exemption of law enforcement officials.

(a) The requirement of registration is waived for the following persons in the circumstances described in this section:

(1) Any officer or employee of the Administration, any officer of the U.S. Customs Service, any officer or employee of the United States Food and Drug Administration, any other Federal officer who is lawfully engaged in the enforcement of any Federal law relating to listed chemicals, controlled substances, drugs or customs, and is duly authorized to possess and distribute List I chemicals in the course of official duties; and

(2) Any officer or employee of any State, or any political subdivision or agency thereof, who is engaged in the enforcement of any State or local law relating to listed chemicals and controlled substances and is duly authorized to possess and distribute List I chemicals in the course of his official duties.

(b) Any official exempted by this section may, when acting in the course of official duties, possess any List I chemical and distribute any such chemical to any other official who is also exempted by this section and acting in the course of official duties.

§ 1309.27 Exemption of certain manufacturers.

The requirement of registration is waived for any manufacturer of a List I chemical, if that chemical is produced solely for internal consumption by the manufacturer and there is no subsequent distribution or exportation of the List I chemical.

Application for Registration

§ 1309.31 Time for application for registration; expiration date.

(a) Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall

engage in any activity for which registration is required until the application for registration is approved and a Certificate of Registration is issued by the Administrator to such person.

(b) Any person who is registered may apply to be reregistered not more than 60 days before the expiration date of his registration.

(c) At the time a person is first registered, that person shall be assigned to one of twelve groups, which shall correspond to the months of the year. The expiration date of the registrations of all registrants within any group will be the last day of the month designated for that group. In assigning any of the above persons to a group, the Administration may select a group the expiration date of which is less than one year from the date such business activity was registered. If the person is assigned to a group which has an expiration date less than eleven months from the date of which the person is registered, the registration shall not expire until one year from that expiration date; in all other cases, the registration shall expire on the expiration date following the date on which the person is registered.

§ 1309.32 Application forms; contents; signature.

(a) Any person who is required to be registered pursuant to Section 1309.21 and is not so registered, shall apply on DEA Form 510.

(b) Any person who is registered pursuant to Section 1309.21, shall apply for reregistration on DEA Form 510a.

(c) DEA Form 510 may be obtained at any divisional office of the Administration or by writing to the Registration Unit, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. DEA Form 510a will be mailed to each List I chemical registrant approximately 60 days before the expiration date of his or her registration; if any registered person does not receive such forms within 45 days before the expiration date of the registration, notice must be promptly given of such fact and DEA Form 510a must be requested by writing to the Registration Unit of the Administration at the foregoing address.

(d) Each application for registration shall include the Administration Chemical Code Number, as set forth in Section 1310.02 of this chapter, for each List I chemical to be distributed, imported, or exported.

(e) Registration shall not entitle a person to engage in any activity with

any List I chemical not specified in his or her application.

(f) Each application shall include all information called for in the form, unless the item is not applicable, in which case this fact shall be indicated.

(g) Each application, attachment, or other document filed as part of an application, shall be signed by the applicant, if an individual; by a partner of the applicant, if a partnership; or by an officer of the applicant, if a corporation, corporate division, association, trust or other entity. An applicant may authorize one or more individuals, who would not otherwise be authorized to do so, to sign applications for the applicant by filing with the application or other document a power of attorney for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications under this paragraph and shall contain the signature of the individual being authorized to sign the application or other document. The power of attorney shall be valid until revoked by the applicant.

§ 1309.33 Filing of application; joint filings.

(a) All applications for registration shall be submitted for filing to the Registration Unit, Drug Enforcement Administration, Chemical Registration/ODC, Post Office Box 2427, Arlington, Virginia 22202–2427. The appropriate registration fee and any required attachments must accompany the application.

(b) Any person required to obtain more than one registration may submit all applications in one package. Each application must be complete and must not refer to any accompanying application for required information.

§ 1309.34 Acceptance for filing; defective applications.

(a) Applications submitted for filing are dated upon receipt. If found to be complete, the application will be accepted for filing. Applications failing to comply with the requirements of this part will not generally be accepted for filing. In the case of minor defects as to completeness, the Administrator may accept the application for filing with a request to the applicant for additional information. A defective application will be returned to the applicant within 10 days of receipt with a statement of the reason for not accepting the application for filing. A defective application may be corrected and resubmitted for filing at any time.

(b) Accepting an application for filing does not preclude any subsequent request for additional information

pursuant to Section 1309.35 and has no bearing on whether the application will be granted.

§ 1309.35 Additional information.

The Administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Administrator in granting or denying the application.

§ 1309.36 Amendments to and withdrawals of applications.

(a) An application may be amended or withdrawn without permission of the Administration at any time before the date on which the applicant receives an order to show cause pursuant to § 1309.46. An application may be amended or withdrawn with permission of the Administrator at any time where good cause is shown by the applicant or where the amendment or withdrawal is in the public interest.

(b) After an application has been accepted for filing, the request by the applicant that it be returned or the failure of the applicant to respond to official correspondence regarding the application, including a request that the applicant submit the required fee, when sent by registered or certified mail, return receipt requested, shall be deemed to be a withdrawal of the application.

Action on Applications for Registration: Revocation or Suspension of Registration

§ 1309.41 Administrative review generally.

The Administrator may inspect, or cause to be inspected, the establishment of an applicant or registrant, pursuant to subpart A of Part 1316 of this chapter. The Administrator shall review the application for registration and other information gathered by the Administrator regarding an applicant in order to determine whether the applicable standards of Section 303 of the Act (21 U.S.C. 823) have been met by the applicant.

§ 1309.42 Certificate of registration; denial of registration.

(a) The Administrator shall issue a Certificate of Registration (DEA Form 511) to an applicant if the issuance of registration or reregistration is required under the applicable provisions of

section 303 of the Act (21 U.S.C. 823). In the event that the issuance of registration or reregistration is not required, the Administrator shall deny the application. Before denying any application, the Administrator shall issue an order to show cause pursuant to Section 1309.46 and, if requested by the applicant, shall hold a hearing on the application pursuant to § 1309.51.

(b) The Certificate of Registration (DEA Form 511) shall contain the name, address, and registration number of the registrant, the activity authorized by the registration, the amount of fee paid, and the expiration date of the registration. The registrant shall maintain the certificate of registration at the registered location in a readily retrievable manner and shall permit inspection of the certificate by any official, agent or employee of the Administration or of any Federal, State, or local agency engaged in enforcement of laws relating to List I chemicals or controlled substances.

§ 1309.43 Suspension or revocation of registration.

(a) The Administrator may suspend any registration pursuant to section 304(a) of the Act (21 U.S.C. 824(a)) for any period of time he determines.

(b) The Administrator may revoke any registration pursuant to section 304(a) of the Act (21 U.S.C. 824(a)).

(c) Before revoking or suspending any registration, the Administrator shall issue an order to show cause pursuant to Section 1309.46 and, if requested by the registrant, shall hold a hearing pursuant to Section 1309.51. Notwithstanding the requirements of this Section, however, the Administrator may suspend any registration pending a final order pursuant to § 1309.44.

(d) Upon service of the order of the Administrator suspending or revoking registration, the registrant shall immediately deliver his or her Certificate of Registration to the nearest office of the Administration.

§ 1309.44 Suspension of registration pending final order.

(a) The Administrator may suspend any registration simultaneously with or at any time subsequent to the service upon the registrant of an order to show cause why such registration should not be revoked or suspended, in any case where he finds that there is an imminent danger to the public health or safety. If the Administrator so suspends, he shall serve with the order to show cause pursuant to § 1309.46 an order of immediate suspension that shall contain

a statement of his findings regarding the danger to public health or safety.

(b) Upon service of the order of immediate suspension, the registrant shall promptly return his Certificate of Registration to the nearest office of the Administration.

(c) Any suspension shall continue in effect until the conclusion of all proceedings upon the revocation or suspension, including any judicial review thereof, unless sooner withdrawn by the Administrator or dissolved by a court of competent jurisdiction. Any registrant whose registration is suspended under this section may request a hearing on the revocation or suspension of his registration at a time earlier than specified in the order to show cause pursuant to Section 1309.46, which request shall be granted by the Administrator, who shall fix a date for such hearing as early as reasonably possible.

§ 1309.45 Extension of registration pending final order.

In the event that an applicant for reregistration (who is doing business under a registration previously granted and not revoked or suspended) has applied for reregistration at least 45 days before the date on which the existing registration is due to expire, and the Administrator has issued no order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continue in effect until the date on which the Administrator so issues his order. The Administrator may extend any other existing registration under the circumstances contemplated in this section even though the registrant failed to apply for reregistration at least 45 days before expiration of the existing registration, with or without request by the registrant, if the Administrator finds that such extension is not inconsistent with the public health and safety.

§ 1309.46 Order to show cause.

(a) If, upon examination of the application for registration from any applicant and other information gathered by the Administration regarding the applicant, the Administrator is unable to make the determinations required by the applicable provisions of section 303 of the Act (21 U.S.C. 823) to register the applicant, the Administrator shall serve upon the applicant an order to show cause why the application for registration should not be denied.

(b) If, upon information gathered by the Administration regarding any registrant, the Administrator determines that the registration of such registrant is subject to suspension or revocation pursuant to section 304 of the Act (21 U.S.C. 824), the Administrator shall serve upon the registrant an order to show cause why the registration should not be revoked or suspended.

(c) The order to show cause shall call upon the applicant or registrant to appear before the Administrator at a time and place stated in the order, which shall not be less than 30 days after the date of receipt of the order. The order to show cause shall also contain a statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted.

(d) Upon Receipt of an order to show cause, the applicant or registrant must, if he desires a hearing, file a request for a hearing pursuant to § 1309.54. If a hearing is requested, the Administrator shall hold a hearing at the time and place stated in the order, pursuant to § 1309.51.

(e) When authorized by the Administrator, any agent of the Administration may serve the order to show cause.

Hearings

§ 1309.51 Hearings generally.

(a) In any case where the Administrator shall hold a hearing on any registration or application therefore, the procedures for such hearing shall be governed generally by the adjudication procedures set forth in the Administrative Procedure Act (5 U.S.C. 551–559) and specifically by sections 303 and 304 of the Act (21 U.S.C. 823–824), by §§ 1309.52 through 1309.57, and by the procedures for administrative hearings under the Act set forth in §§ 1316.41 through 1316.67 of this chapter.

(b) Any hearing under this part shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the Act or any other law of the United States.

§ 1309.52 Purpose of hearing.

If requested by a person entitled to a hearing, the Administrator shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation, or suspension of any registration. Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda

or proposed findings of fact and conclusions of law.

§ 1309.53 Waiver or modification of rules.

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

§ 1309.54 Request for hearing or appearance; waiver.

(a) Any person entitled to a hearing pursuant to §§ 1309.42 and 1309.43 and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

(b) Any person entitled to a hearing pursuant to §§ 1309.42 and 1309.43 may, within the period permitted for filing a request for a hearing, file with the Administrator a waiver of an opportunity for a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(c) If any person entitled to a hearing pursuant to §§ 1309.42 and 1309.43 fails to file a request for a hearing, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing, unless he shows good cause for such failure.

(d) If any person entitled to a hearing waives or is deemed to waive his or her opportunity for the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1309.57 without a hearing.

§ 1309.55 Burden of proof.

(a) At any hearing for the denial of a registration, the Administration shall have the burden of proving that the requirements for such registration pursuant to section 303 of the Act (21 U.S.C. 823) are not satisfied.

(b) At any hearing for the revocation or suspension of a registration, the Administration shall have the burden of proving that the requirements for such revocation or suspension pursuant to section 304(a) of the Act (21 U.S.C. 824(a)) are satisfied.

§ 1309.56 Time and place of hearing.

The hearing will commence at the place and time designated in the order to show cause or notice of hearing published in the **Federal Register** (unless expedited pursuant to Section 1309.44(c)) but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

§ 1309.57 Final order.

As soon as practicable after the presiding officer has certified the record to the Administrator, the Administrator shall cause to be published in the **Federal Register** his final order in the proceeding, which shall set forth the final rule and the findings of fact and conclusions of law upon which the rule is based. This order shall specify the date on which it shall take effect, which date shall not be less than 30 days from the date of publication in the **Federal Register** unless the Administrator finds that the public interest in the matter necessitates an earlier effective date, in which case the Administrator shall specify in the order his findings as to the conditions which led him to conclude that an earlier effective date was required.

Modification, Transfer and Termination of Registration

§ 1309.61 Modification in registration.

Any registrant may apply to modify his or her registration to authorize the handling of additional List I chemicals or to change his or her name or address, by submitting a letter of request to the Drug Enforcement Administration, Chemical Registration/ODC, Post Office Box 2427, Arlington, Virginia 22202–2427. The letter shall contain the registrant's name, address, and registration number as printed on the certificate of registration, and the List I chemicals to be added to his registration or the new name or address and shall be signed in accordance with § 1309.32(g). No fee shall be required to be paid for the modification. The request for modification shall be handled in the same manner as an application for registration. If the modification in registration is approved, the Administrator shall issue a new certificate of registration (DEA Form 511) to the registrant, who shall maintain it with the old certificate of registration until expiration.

§ 1309.62 Termination of registration.

The registration of any person shall terminate if and when such person dies, ceases legal existence, or discontinues

business or professional practice. Any registrant who ceases legal existence or discontinues business or professional practice shall notify the Administrator promptly of such fact.

§ 1309.63 Transfer of registration.

No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the Administrator may specifically designate and then only pursuant to his written consent.

Security Requirements

§ 1309.71 General security requirements.

(a) All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of List I chemicals. Specific attention shall be paid to storage of and controlling access to List I chemicals as follows:

(1) Chemicals shall be stored in containers sealed in such a manner as to indicate any attempts at tampering with the container. Where chemicals cannot be stored in sealed containers, access to the chemicals should be controlled through physical means or through human or electronic monitoring.

(2) In retail settings open to the public where drugs containing List I chemicals that are regulated pursuant to § 1310.01(f)(1)(iv) are distributed, such drugs will be stocked behind a counter where only employees have access.

(b) In evaluating the effectiveness of security controls and procedures, the Administrator shall consider the following factors:

(1) The type, form, and quantity of List I chemicals handled;

(2) The location of the premises and the relationship such location bears on the security needs;

(3) The type of building construction comprising the facility and the general characteristics of the building or buildings;

(4) The availability of electronic detection and alarm systems;

(5) The extent of unsupervised public access to the facility;

(6) The adequacy of supervision over employees having access to List I chemicals;

(7) The procedures for handling business guests, visitors, maintenance personnel, and nonemployee service personnel in areas where List I chemicals are processed or stored;

(8) The adequacy of the registrant's or applicant's systems for monitoring the receipt, distribution, and disposition of List I chemicals in its operations.

(c) Any registrant or applicant desiring to determine whether a

proposed system of security controls and procedures is adequate may submit materials and plans regarding the proposed security controls and procedures either to the Special Agent in Charge in the region in which the security controls and procedures will be used, or to the Chemical Operations Section Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

§ 1309.72 Felony conviction; employer responsibilities.

(a) The registrant shall exercise caution in the consideration of employment of persons who will have access to listed chemicals, who have been convicted of a felony offense relating to controlled substances or listed chemicals, or who have, at any time, had an application for registration with the DEA denied, had a DEA registration revoked, or surrendered a DEA registration for cause. (For purposes of this subsection, the term "for cause" means a surrender in lieu of, or as a consequence of, any Federal or State administrative, civil or criminal action resulting from an investigation of the individual's handling of controlled substances or listed chemicals.) The registrant should be aware of the circumstances regarding the action against the potential employee and the rehabilitative efforts following the action. The registrant shall assess the risks involved in employing such persons, including the potential for action against the registrant pursuant to § 1309.43. If such person is found to have diverted listed chemicals, and, in the event of employment, shall institute procedures to limit the potential for diversion of List I chemicals.

(b) It is the position of DEA that employees who possess, sell, use or divert listed chemicals or controlled substances will subject themselves not only to State or Federal prosecution for any illicit activity, but shall also immediately become the subject of independent action regarding their continued employment. The employer will assess the seriousness of the employee's violation, the position of responsibility held by the employee, past record of employment, etc., in determining whether to suspend, transfer, terminate or take other action against the employee.

§ 1309.73 Employee responsibility to report diversion.

Reports of listed chemical diversion by fellow employees is not only a necessary part of an overall employee security program but also serves the public interest at large. It is, therefore,

the position of DEA that an employee who has knowledge of diversion from his employer by a fellow employee has an obligation to report such information to a responsible security official of the employer. The employer shall treat such information as confidential and shall take all reasonable steps to protect the confidentiality of the information and the identity of the employee furnishing information. A failure to report information of chemical diversion will be considered in determining the feasibility of continuing to allow an employee to work in an area with access to chemicals. The employer shall inform all employees concerning this policy.

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.01 is amended by revising paragraphs (b), (c), (d), (e), (f)(1) and (g), redesignating paragraph (k) as paragraph (m) and inserting new paragraphs (k) and (l) as follows:

§ 1310.01 Definitions.

* * * * *

(b) The term *listed chemical* means any List I chemical or List II chemical.

(c) The term *List I chemical* means a chemical specifically designated by the Administrator in § 1310.02(a) that, in addition to legitimate uses, is used in manufacturing a controlled substance in violation of the Act and is important to the manufacture of a controlled substance.

(d) The term *List II chemical* means a chemical, other than a List I chemical, specifically designated by the Administrator in Section 1310.02(b) that, in addition to legitimate uses, is used in manufacturing a controlled substance in violation of the Act.

(e) The term *regulated person* means any individual, corporation, partnership, association, or other legal entity who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine, or who acts as a broker or trader for an international transaction involving a listed chemical, tableting machine, or encapsulating machine.

(f) The term *regulated transaction* means:

(1) A distribution, receipt, sale, importation, or exportation of a listed chemical, or an international transaction involving shipment of a listed chemical, or if the Administrator establishes a threshold amount for a specific listed chemical, a threshold amount as determined by the Administrator, which includes a cumulative threshold amount

for multiple transactions, of a listed chemical, except that such terms does not include:

(i) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person; in this context, agents or employees means individuals under the direct management and control of the regulated person;

(ii) A delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this paragraph does not relieve a distributor, importer, or exporter from compliance with this part or parts 1309 and 1313 of this chapter;

(iii) Any category of transaction or any category of transaction for a specific listed chemical or chemicals specified by regulation of the Administrator as excluded from this definition as unnecessary for enforcement of the Act;

(iv) Any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act unless—

(A) The drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient. For purposes of this paragraph, the term "therapeutically insignificant quantities" shall apply if the product formulation (i.e., the qualitative and quantitative composition of active ingredients within the product) is not listed in *American Pharmaceutical Association (Apha) Handbook of Nonprescription Drugs; Drug Facts and Comparisons* (published by Wolters Kluwer Company); or *USP DI* (published by authority of the United States Pharmacopeial Convention, Inc.); or the product is not listed in § 1310.15 as an exempt drug product. For drug products having formulations not found in the above compendiums, the Administrator shall determine, pursuant to a written request as specified in § 1310.14, whether the active medicinal ingredients are present in quantities considered therapeutically significant for purposes of this paragraph; or

(B) The Administrator has determined pursuant to the criteria in § 1310.10 that:

(1) The drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(2) The quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Administrator;

(v) Any transaction in a chemical mixture listed in § 1310.13.

(g) The term *chemical mixture* means a combination of two or more chemical substances, at least one of which is not a listed chemical, except that such term does not include any combination of a listed chemical with another chemical that is present solely as an impurity or which has been created to evade the requirements of the act.

(k) The terms *broker* and *trader* mean any individual, corporation, corporate division, partnership, association, or other legal entity which assists in arranging an international transaction in a listed chemical by—

(1) negotiating contracts;
 (2) serving as an agent or intermediary; or

(3) fulfilling a formal obligation to complete the transaction by bringing together a buyer and seller, a buyer and transporter, or a seller and transporter, or by receiving any form of compensation for so doing.

(l) The term *international transaction* means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

3. Section 1310.02 is amended by revising the introductory text and paragraphs (a) and (b) to read as follows:

§ 1310.02 Substances Covered.

The following chemicals have been specifically designated by the Administrator of the Drug Enforcement Administration as the listed chemicals subject to the provisions of this part and parts 1309 and 1313 of this chapter. Each chemical has been assigned the DEA Chemical Code Number set forth opposite it.

(a) List I chemicals

- (1) Anthranilic acid, its esters, and its salts8530
- (2) Benzyl cyanide8735
- (3) Ephedrine, its salts, optical

- isomers, and salts of optical isomers8113
- (4) Ergonovine and its salts8675
- (5) Ergotamine and its salts8676
- (6) N-Acetylanthranilic acid, its esters, and its salts8522
- (7) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers8317
- (8) Phenylacetic acid, its esters, and its salts8791
- (9) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers1225
- (10) Piperidine and its salts2704
- (11) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers8112
- (12) 3,4-Methylenedioxyphenyl-2-propanone8502
- (13) Methylamine and its salts8520
- (14) Ethylamine and its salts8678
- (15) Propionic anhydride8328
- (16) Isosafrole (Isosafrole)8704
- (17) Safrole8323
- (18) Piperonal8750
- (19) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers (N-Methylephedrine)8115
- (20) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers8119
- (21) Hydriotic acid (Hydriodic Acid)6695
- (22) Benzaldehyde8256
- (23) Nitroethane6724
- (b) List II Chemicals:
- (1) Acetic anhydride8519
- (2) Acetone6532
- (3) Benzyl chloride8570
- (4) Ethyl ether6584
- (5) Potassium permanganate6579
- (6) 2-Butanone (or Methyl Ethyl Ketone or MEK)6714
- (7) Toluene6594
- (8) Hydrochloric acid6545
- (9) Sulfuric acid6552
- (10) Methyl Isobutyl Ketone (MIBK)6715

4. Section 1310.04 is amended by revising paragraphs (a), (b), (f)(1) introductory, and (f)(2) introductory text and (iv), by removing paragraphs (f)(1)(xiv), (f)(1)(xx), and (f)(1)(xxii); redesignating paragraphs (f)(1)(xv) through (xix) as (f)(1)(xiv) through (xviii), paragraph (f)(1)(xxi) as (f)(1)(xix) and paragraph (f)(1)(xxiii) as (f)(1)(xx); and adding new paragraphs (f)(1)(xxi) and (xxii) to read as follows:

§ 1310.04 Maintenance of records.

(a) Every record required to be kept subject to Section 1310.03 for a List I chemical, a tableting machine, or an encapsulating machine shall be kept by the regulated person for four years after the date of the transaction.

(b) Every record required to be kept subject to Section 1310.03 for List II chemical shall be kept by the regulated

person for two years after the date of the transaction.

* * * * *

(f) * * *

(1) List I Chemicals:

Chemical	Threshold by base weight
(i) * * *	
(xxii) Benzaldehyde	4 Kilograms.
(xxiii) Nitroethane	2.5 Kilograms.

(2) List II chemicals:

(j) * * *

(iv) Exports, transshipments and international transactions to Designated Countries set forth in § 1310.08(b)

* * * * *

5. Section 1310.06 is amended by revising paragraphs (a) introductory text, (a)(1), (c), and (d) to read as follows:

§ 1310.06 Content of records and reports.

(a) Each record required by § 1310.03 shall include the following:

(1) The name, address, and, if required, DEA registration number of each party to the regulated transaction.

* * * * *

(c) Each report required by Section 1310.05(a) shall include the information as specified by Section 1310.06(a) and, where obtainable, the registration number of the other party, if such party is registered. A report submitted pursuant to § 1310.05(a)(1) or (a)(4) must also include a description of the circumstances leading the regulated person to make the report, such as the reason that the method of payment was uncommon or the loss unusual. If the report is for a loss or disappearance under § 1310.05(a)(4), the circumstances of such loss must be provided (in-transit, theft from premises, etc.)

(d) A suggested format for the reports is provided below:

Supplier:

Registration Number _____
 Name _____
 Business Address _____
 City _____
 State _____
 Zip _____
 Business Phone _____

Purchaser:

Registration Number _____
 Name _____
 Business Address _____
 City _____
 State _____
 Zip _____
 Business Phone _____
 Identification _____

Shipping Address (if different than purchaser Address):

Street _____

City _____
 State _____
 Zip _____
 Date of Shipment _____
 Name of Listed Chemical(s) _____
 Quantity and Form of Packaging _____

Description of Machine:

Make _____
 Model _____
 Serial # _____
 Method of Transfer _____

If Loss or Disappearance:

Date of Loss _____
 Type of Loss _____
 Description of Circumstances _____

Public reporting burden for this collection of information is estimated to average ten minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Drug Enforcement Administration, Records Management Section, Washington, D.C. 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 1117-0024, Washington, D.C. 20503.

* * * * *

6. Section 1310.07 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1310.07 Proof of identity.

(a) Each regulated person who engages in a regulated transaction must identify the other party to the transaction. For domestic transaction, this shall be accomplished by having the other party present documents which would verify the identity, or registration status if a registrant, of the other party to the regulated person at the time the order is placed. For export transactions, this shall be accomplished by good faith inquiry through reasonably available research documents or publicly available information which would indicate the existence of the foreign customer. No proof of identity is required for foreign suppliers.

(b) The regulated person must verify the existence and apparent validity of a business entity ordering a listed chemical, tableting machine or encapsulating machine. For domestic transactions, this may be accomplished by such methods as checking the telephone directory, the local credit bureau, the local Chamber of Commerce or the local Better Business Bureau, or, if the business entity is a registrant, by verification of the registration. For

export transactions, a good faith inquiry to verify the existence and apparent validity of a foreign business entity may be accomplished by such methods as verifying the business telephone listing through international telephone information, the firm's listing in international or foreign national chemical directories or other commerce directories or trade publications, confirmation through foreign subsidiaries of the U.S. regulated person, verification through the country of destination's embassy Commercial Attache, or official documents provided by the purchaser which confirm the existence and apparent validity of the business entity.

* * * * *

7. Section 1310.08 is amended by revising paragraph (b) introductory text to read as follows:

§ 1310.08 Excluded transactions.

* * * * *

(b) Exports, transshipments, and international transactions of hydrochloric and sulfuric acids, except for exports, transshipments and international transactions to the following countries:

* * * * *

8. Sections 1310.10 and 1310.11 are added to read as follows:

§ 1310.10 Removal of the exemption of drugs distributed under the Food, Drug and Cosmetic Act.

(a) The Administrator may remove from exemption under 1310.01(f)(1)(iv) any drug or group of drugs that the Administrator finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance. In removing a drug or group of drugs from the exemption the Administrator shall consider:

- (1) the scope, duration, and significance of the diversion;
- (2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and
- (3) whether the listed chemical can be readily recovered from the drug or group of drugs.

(b) Upon determining that a drug or group of drugs should be removed from the exemption under paragraph (a) of this section, the Administrator shall issue and publish in the **Federal Register** his proposal to remove the drug or group of drugs from the exemption, which shall include a reference to the legal authority under which the proposal is based. The Administrator shall permit any interested person to file written comments on or objections to

the proposal. After considering any comments or objections filed, the Administrator shall publish in the **Federal Register** his final order.

(c) The Administrator shall limit the removal of a drug or group of drugs from exemption under paragraph (a) of this section to the most identifiable type of the drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

(d) Any manufacturer seeking reinstatement of a particular drug product that has been removed from an exemption under paragraph (a) of this section, may apply to the Administrator for reinstatement of the exemption for that particular drug product on the grounds that the particular drug product is manufactured and distributed in a manner that prevents diversion. In determining whether the exemption should be reinstated the Administrator shall consider:

- (1) the package sizes and manner of packaging of the drug product;
- (2) the manner of distribution and advertising of the drug product;
- (3) evidence of diversion of the drug product;
- (4) any actions taken by the manufacturer to prevent diversion of the drug product; and
- (5) such other factors as are relevant to and consistent with the public health and safety, including the factors described in paragraph (a) of this section as applied to the drug product.

(e) Within a reasonable period of time after receipt of the application for reinstatement of the exemption, the Administrator shall notify the applicant of his acceptance or non-acceptance of his application, and if not accepted, the reason therefor. If the application is accepted for filing, the Administrator shall issue and publish in the **Federal Register** his order on the reinstatement of the exemption for the particular drug product, which shall include a reference to the legal authority under which the order is based. This order shall specify the date on which it shall take effect. The Administrator shall permit any interested person to file written comments on or objections to the order. If any such comments raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke, or

amend his original order as he determines appropriate.

(f) Unless the Administrator has evidence that the drug product is being diverted, as determined by applying the factors set forth in paragraph (a) of this section, and the Administrator so notifies the applicant, transactions involving a specific drug product will not be considered regulated transactions during the following periods:

- (1) while a bonafide application for reinstatement of exemption under paragraph (d) of this section for the specific drug product is pending resolution, provided that the application for reinstatement is filed not later than 60 days after the publication of the final order removing the exemption; and
- (2) for a period of 60 days following the Administrator's denial of an application for reinstatement.

(g) An order published by the Administrator in the **Federal Register**, pursuant to paragraph (e) of this section, to reinstate an exemption may be modified or revoked with respect to a particular drug product upon a finding that:

- (1) applying the factors set forth in paragraph (a) of this section to the particular drug product, the drug product is being diverted; or
- (2) there is a significant change in the data that led to the issuance of the final rule.

§ 1310.11 Reinstatement of exemption for drug products distributed under the Food, Drug and Cosmetic Act.

(a) The Administrator has reinstated the exemption for the drug products listed in paragraph (e) of this section from application of sections 302, 303, 310, 1007, and 1008 of the Act (21 U.S.C. 822-823, 830, and 957-958), to the extent described in paragraphs (b), (c), and (d) of this section.

(b) No reinstated exemption granted pursuant to 1310.10 affects the criminal liability for illegal possession or distribution of listed chemicals contained in the exempt drug product.

(c) Changes in exempt drug product compositions: Any change in the quantitative or qualitative composition, trade name or other designation of an exempt drug product listed in paragraph (d) requires a new application for reinstatement of the exemption.

(d) The following drug products, in the form and quantity listed in the application submitted (indicated as the "date") are designated as reinstated exempt drug products for the purposes set forth in this section:

EXEMPT DRUG PRODUCTS

Supplier	Product name	Form	Date
[Reserved]	

9. Section 1310.14 and 1310.15. are added to read as follows:

§ 1310.14 Exemption of drug products containing ephedrine and therapeutically significant quantities of another active medicinal ingredient.

(a) Any manufacturer of a drug product containing ephedrine in combination with another active medicinal ingredient, the product formulation of which is not listed in the compendiums set forth in section 1310.01(f)(1)(iv)(A), may request that the Administrator exempt the product as one which contains ephedrine together with a therapeutically significant quantity of another active medicinal ingredient.

(b) An application for an exemption under this section shall contain the following information:

- (1) The name and address of the applicant;
- (2) The exact trade name of the drug product for which exemption is sought;
- (3) The complete quantitative and qualitative composition of the drug product;
- (4) A brief statement of the facts which the applicant believes justify the granting of an exemption under this section; and
- (5) Certification by the applicant that the product may be lawfully marketed or distributed under the Food, Drug, and Cosmetic Act.

(6) The identification of any information on the application which is considered by the applicant to be a trade secret or confidential and entitled to protection under U.S. laws restricting the public disclosure of such information by government employees.

(c) The Administrator may require the applicant to submit such additional documents or written statements of fact relevant to the application which he deems necessary for determining if the application should be granted.

(d) Within a reasonable period of time after the receipt of a completed application for an exemption under this section, the Administrator shall notify the applicant of acceptance or non-acceptance of the application. If the application is not accepted, an explanation will be provided. The Administrator is not required to accept an application if any of the information required in paragraph (b) of this section or requested pursuant to paragraph (c) of this section is lacking or not readily

understood. The applicant may, however, amend the application to meet the requirements of paragraphs (b) and (c) of this section. If the application is accepted for filing, the Administrator shall issue and publish in the **Federal Register** an order on the application, which shall include a reference to the legal authority under which the order is based. This order shall specify the date on which it shall take effect. The Administrator shall permit any interested person to file written comments on or objections to the order. If any comments or objections raise significant issues regarding any findings of fact or law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke, or amend the original order as deemed appropriate.

§ 1310.15 Exempt drug products containing ephedrine and therapeutically significant quantities of another active medicinal ingredient.

(a) The drug products containing ephedrine and therapeutically significant quantities of another active medicinal ingredient listed in paragraph (e) of this section have been exempted by the Administrator from application of sections 302, 303, 310, 1007, and 1008 of the Act (21 U.S.C. 822-3, 830, and 957-8) to the extent described in paragraphs (b), (c), and (d) of this section.

(b) No exemption granted pursuant to 1310.14 affects the criminal liability for illegal possession or distribution of listed chemicals contained in the exempt drug product.

(c) Changes in drug product compositions: Any change in the quantitative or qualitative composition of an exempt drug product listed in paragraph (d) requires a new application for exemption.

(d) In addition to the drug products listed in the compendium set forth in § 1310.01(f)(1)(iv)(A), the following drug products, in the form and quantity listed in the application submitted (indicated as the "date") are designated as exempt drug products for the purposes set forth in this section:

EXEMPT DRUG PRODUCTS CONTAINING EPHEDRINE AND THERAPEUTICALLY SIGNIFICANT QUANTITIES OF ANOTHER ACTIVE MEDICINAL INGREDIENT

Supplier	Product name	Form	Date
[Reserved]	

PART 1313—[AMENDED]

1. The authority citation for part 1313 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 971.

2. Section 1313.02 is amended by revising paragraphs (c), (d) introductory text, (d)(1), (h) and (i); redesignating paragraph (m) as paragraph (o) and adding new paragraphs (m) and (n) to read as follows:

§ 1313.02 Definitions.

* * * * *

(c) The term *regulated person* means any individual, corporation, partnership, association, or other legal entity who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine, or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.

(d) The term *regulated transaction* means:

(1) A distribution, receipt, sale, importation, exportation, or international transaction of a listed chemical, or if the Administrator establishes a threshold amount for a specific listed chemical, a threshold amount as determined by the Administrator, which includes a cumulative threshold amount for multiple transactions, of a listed chemical, except that such term does not include:

(i) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person; in this context, agents or employees means individuals under the direct management and control of the regulated person;

(ii) A delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this paragraph does not

relieve a distributor, importer, or exporter from compliance with this part or parts 1309 and 1310 of this chapter;

(iii) Any category of transaction or any category of transaction for a specific listed chemical or chemicals specified by regulation of the Administrator as excluded from this definition as unnecessary for enforcement of the Act;

(iv) Any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act unless—

(A) The drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient (for purposes of this paragraph, the term

"therapeutically insignificant quantities" shall apply if the product formulation (i.e., the qualitative and quantitative composition of active ingredients within the product) is not listed in *American Pharmaceutical Association (Apha) Handbook of Nonprescription Drugs; Drug Facts and Comparisons* (published by Wolters Kluwer Company); or *USP DI* (published by authority of the United States Pharmacopeial Convention, Inc.); or the product is not listed in Section 1310.15 as an exempt drug product. For drug products having formulations not found in the above compendiums, the Administrator shall determine, pursuant to a written request as specified in Section 1310.14, whether the active medicinal ingredients are present in quantities considered therapeutically significant for purposes of this paragraph; or

(B) The Administrator has determined pursuant to the criteria in Section 1310.10 that:

(1) The drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(2) The quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Administrator;

(v) Any transaction in a chemical mixture listed in Section 1310.13.

* * * * *

(h) The term *regular importer* means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Administrator.

(i) The term *established record as an importer* means that the regulated

person has imported a listed chemical at least once within the past six months, or twice within the past twelve months from a foreign supplier. The term also means that the regulated person has provided the Administration with the following information in accordance with the waiver of the 15-day advance notice requirements of Section 1313.15:

- (1) the name, DEA registration number (where applicable), street address, telephone number, telex number, and, where available, the facsimile number of the regulated person and of each foreign supplier; and
- (2) the frequency and number of transactions occurring during the preceding 12-month period.

* * * * *

(m) The terms *broker* and *trader* mean any individual, corporation, corporate division, partnership, association, or other legal entity which assists in arranging an international transaction in a listed chemical by—

- (1) negotiating contracts;
- (2) serving as an agent or intermediary; or
- (3) fulfilling a formal obligation to complete the transaction by bringing together a buyer and seller, a buyer and transporter, or a seller and transporter, or by receiving any form of compensation for so doing.

(n) The term *international transaction* means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

* * * * *

3. Section 1313.12 is amended by revising paragraph (c) and adding new paragraphs (d), (e) and (f) to read as follows:

§ 1313.12 Requirement of authorization to import.

* * * * *

(c) The 15-day advance notification requirement for listed chemical imports may be waived for:

- (1) Any regulated person who has satisfied the requirements for reporting to the Administration as a regular importer of such listed chemicals; or
- (2) A specific listed chemical, as set forth in paragraph (f) of this section, for which the Administrator determines that advance notification is not necessary for effective chemical diversion control.

(d) For imports where advance notification is waived pursuant to paragraph (c)(1) of this section, the DEA Form 486 must be received by the Drug Enforcement Administration, Chemical Operations Section, on or before the

date of importation through use of the mailing address listed in § 1313.12(b) or through use of electronic facsimile media.

(e) For importations where advance notification is waived pursuant to paragraph (c)(2) of this section no DEA Form 486 is required, however, the regulated person shall submit quarterly reports to the Drug Enforcement Administration, Chemical Operations Section, P.O. Box 28346, Washington, DC 20038, by no later than the 15th day of the month following the end of each quarter. The report shall contain the following information regarding each individual importation:

- (1) The name of the listed chemical;
- (2) The quantity and date imported;
- (3) The name and full business address of the supplier;
- (4) The foreign port of embarkation; and
- (5) The port of entry.

(f) The 15 day advance notification requirement set forth in paragraph (a) has been waived for imports of the following listed chemicals:

- (1) [Reserved]
- 4. Section 1313.15 is revised to read as follows:

§ 1313.15 Waiver of 15-day advance notice for regular importers.

(a) Each regulated person seeking designation as a "regular importer" shall provide, by certified mail return receipt requested, to the Administration such information as is required under § 1313.02(i), documenting their status as a regular importer.

(b) Each regulated person making application under paragraph (a) of this section shall be considered a "regular importer" for purposes of waiving the 15-day advance notice, 30 days after receipt of the application by the Administration, as indicated on the return receipt, unless the regulated person is otherwise notified in writing by the Administration.

(c) The Administrator, may, at any time, disqualify a regulated person's status as a regular importer on the grounds that the chemical being imported may be diverted to the clandestine manufacture of a controlled substance.

(d) Unless the Administration notifies the chemical importer to the contrary, the qualification of a regular importer of any one of these three chemicals, acetone, 2-Butanone (MEK), or toluene, qualifies that importer as a regular importer of all three of these chemicals.

(e) All chemical importers shall be required to file a DEA Form 486 as required by Section 1313.12.

5. Section 1313.21 is amended by redesignating paragraph (d) as

paragraph (g) by revising paragraph (c) and newly designated paragraph (g) and by adding new paragraphs (d), (e), and (f) to read as follows:

§ 1313.21 Requirement of authorization to export.

* * * * *

(c) The 15-day advance notification requirement for listed chemical exports may be waived for:

(1) any regulated person who has satisfied the requirements of Section 1313.24 for reporting to the Administration an established business relationship with a foreign customer as defined in § 1313.02(j).

(2) A specific listed chemical to a specified country, as set forth in paragraph (f) of this section, for which the Administrator determines that advance notification is not necessary for effective chemical diversion control.

(d) For exports where advance notification is waived pursuant to paragraph (c)(1) of this section, the DEA Form 486 must be received by the Drug Enforcement Administration, Chemical Operations Section, on or before the date of exportation through use of the mailing address listed in Section 1313.12(b) or through use of electronic facsimile media.

(e) For exportations where advance notification is waived pursuant to paragraph (c)(2) of this section, the regulated person shall file quarterly reports to the Drug Enforcement Administration, Chemical Operations Section, P.O. Box 28346, Washington, DC 20038, by no later than the 15th day of the month following the end of each quarter. The report shall contain the following information regarding each individual importation:

- (1) The name of the listed chemical;
- (2) The quantity and date exported;
- (3) The name and full business address of the foreign customer;
- (4) The port of embarkation; and
- (5) The foreign port of entry.

(f) The 15 day advance notification requirement set forth in paragraph (a) of this section has been waived for exports of the following listed chemicals to the following countries:

Name of Chemical	Country
[Reserved]	

(g) No person shall export or cause to be exported any listed chemical, knowing or having reasonable cause to believe the export is in violation of the laws of the country to which the chemical is exported or the chemical will be used to manufacture a controlled substance in violation of the Act or the

laws of the country to which the chemical is exported. The Administration will publish a notice of foreign import restrictions for listed chemicals of which DEA has knowledge as provided in § 1313.25.

6. A new undesignated center heading is added preceding § 1313.31 to read as follows:

Transshipments, In-Transit Shipments and International Transactions Involving Listed Chemicals

7. Sections 1313.32, 1313.33, and 1313.34 are added to read as follows:

- 1313.32 Requirement of authorization for international transactions.
- 1313.33 Contents of an international transaction declaration.
- 1313.34 Distribution of the international transaction declaration.

§ 1312.32 Requirement of authorization for international transactions.

(a) A broker or trader shall notify the Administrator prior to an international transaction involving a listed chemical which meets or exceeds the threshold amount identified in Section 1310.04 of this chapter, in which the broker or trader participates. Notification must be made no later than 15 days before the transaction is to take place. In order to facilitate an international transaction involving listed chemicals and implement the purpose of the Act, regulated persons may wish to provide advance notification to the Administration as far in advance of the 15 days as possible.

(b) (1) A completed DEA Form 486 must be received at the following address not later than 15 days prior to the international transaction:

Drug Enforcement Administration, P.O. Box 28346, Washington, D.C. 20038

(2) A copy of the DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Chemical Operations Section, through electronic facsimile media not later than 15 days prior to the exportation.

(c) No person shall serve as a broker or trader for an international transaction involving a listed chemical knowing or having reasonable cause to believe that the transaction is in violation of the laws of the country to which the chemical is exported or the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported. The Administration will publish a notice of foreign import restrictions for listed chemicals of which DEA has knowledge as provided in Section 1313.25.

§ 1313.33 Contents of an international transaction declaration.

(a) An international transaction involving a chemical listed in § 1310.02 of this chapter which meets the threshold criteria established in § 1310.04 of this chapter may be arranged by a broker or trader if the chemical is needed for medical, commercial, scientific, or other legitimate uses.

(b) Any broker or trader who desires to arrange an international transaction involving a listed chemical which meets the criteria set forth in Section 1310.04 shall notify the Administration through the procedures outlined in Section 1313.32(b).

(c) The DEA Form 486 must be executed in triplicate and must include all the following information:

- (1) The name, address, telephone number, telex number, and, where available, the facsimile number of the chemical exporter; the name, address, telephone number, telex number, and, where available, the facsimile number of the chemical importer;
- (2) The name and description of each listed chemical as it appears on the label or container, the name of each listed chemical as it is designated in Section 1310.02 of this chapter, the size or weight of container, the number of containers, the net weight of each listed chemical given in kilograms or parts thereof, and the gross weight of the shipment given in kilograms or parts thereof;
- (3) The proposed export date, the port of exportation, and the port of importation; and
- (4) The name, address, telephone, telex, and where available, the facsimile number, of the consignee in the country where the chemical shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

§ 1313.34 Distribution of the international transaction declaration.

The required three copies of the DEA Form 486 will be distributed as follows:

- (a) Copies 1 and 3 shall be retained on file by the broker or trader as the official record of the international transaction. Declaration forms involving List I chemicals shall be retained for List II chemicals shall be retained for two years.
- (b) Copy 2 is the Drug Enforcement Administration copy used to fulfill the notification requirements of Section 1313.32.

* * * * *

7. In the heading of part 1313, the undesignated center heading preceding section 1313.12, and the undesignated center heading preceding section

1313.21 remove the words "Precursors and Essential Chemicals" and add, in their place, the words "Listed Chemicals";

§ 1313.01 [Amended]

8. In Section 1313.01 remove the words "precursors and essential chemicals" and add, in their place, the words "listed chemicals";

§ 1313.14 [Amended]

9. In Section 1313.14 introductory text, and in Section 1313.23 introductory text, remove the words "precursor and essential chemical" and add, in their place, "listed chemical".

§ 1313.13 [Amended]

10. In Sections 1313.13(a) and 1313.22(a) DEA is removing the words "precursor or essential chemical" and adding, in their place, the words "List I or List II chemical".

§ 1313.14 [Amended]

11. In Sections 1313.14(a) and 1313.23(a) DEA is removing the words "listed precursor chemical" and "listed essential chemical" and adding, in their place, the words "List I chemical" and "List II chemical" respectively.

PART 1316—[AMENDED]

1. The authority citation for part 1316 is amended to read as follows:

Authority: 21 U.S.C. 822(f), 830(a), 871(b), 880, 958(f), 965.

2. Section 1316.02 is amended by revising paragraph (c)(2) to read as follows:

§ 1316.02 Definitions.

* * * * *

(c) * * *

(2) Places, including factors, warehouses, or other establishments and conveyances, where persons registered under the Act or exempted from registration under the Act, or regulated persons may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained.

* * * * *

3. Section 1316.03 is amended by revising paragraphs (b), (c), (d) and (e) to read as follows:

§ 1316.03 Authority to make inspections.

* * * * *

(b) Inspecting within reasonable limits and to a reasonable manner all pertinent equipment, finished and unfinished controlled substances, listed chemicals, and other substances or materials, containers, and labeling

found at the controlled premises relating to this Act;

(c) Making a physical inventory of all controlled substances and listed chemicals on-hand at the premises;

(d) Collecting samples of controlled substances or listed chemicals (in the event any samples are collected during an inspection, the inspector shall issue a receipt for such samples on DEA Form 84 to the owner, operator, or agent in charge of the premises);

(e) Checking of records and information on distribution of controlled substances or listed chemicals by the registrant or regulated person (i.e., has the distribution of controlled substances or listed chemicals increased markedly within the past year, and if so why);

* * * * *

4. Section 1316.09 is amended by revising paragraph (a)(3) to read as follows:

§ 1316.09 Application for administrative inspection warrant.

(a) * * *

(3) A statement relating to the nature and extent of the administrative inspection, including, where necessary, a request to seize specified items and/or to collect samples of finished or unfinished controlled substances or listed chemicals;

* * * * *

Dated: May 1, 1995.

Stephen H. Greene,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 95-14978 Filed 6-21-95; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5225-1]

Determination of Attainment of Ozone Standard by Ashland, Kentucky, Northern Kentucky (Cincinnati Area), Charlotte, North Carolina, and Nashville, Tennessee, and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is determining, through direct final procedure, that the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, and

Nashville, Tennessee ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon three years of complete, quality assured ambient air monitoring data for the years 1992-94 that demonstrate that the ozone NAAQS has been attained in these areas. On the basis of this determination, EPA is also determining that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Clean Air Act are not applicable to the areas for so long as the areas continue to attain the ozone NAAQS. In the proposed rules section of this **Federal Register**, EPA is proposing these determinations and soliciting public comment on them. If adverse comments are received on this direct final rule, EPA will withdraw this final rule and address these comments in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**.

DATES: This action will be effective August 7, 1995 unless notice is received by July 24, 1995 that any person wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: A copy of the air quality data and EPA's analysis are available for inspection at the following address: Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Commonwealth of Kentucky, Division of Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601
 State of North Carolina, Air Quality Section, Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, Raleigh, North Carolina 27626

Environmental Management Division, Mecklenburg County Department of Environmental Protection, 700 N. Tryon Street, Charlotte, North Carolina 28202-2236

State of Tennessee, Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson

County, 311-23rd Avenue, North, Nashville, Tennessee 37203

Written comments can be mailed to: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555 extension 4221.

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555 extension 4221.

SUPPLEMENTARY INFORMATION:

I. Background

Subpart 2 of Part D of Title I of the Clean Air Act (CAA) contains various air quality planning and state implementation plan (SIP) submission requirements for ozone nonattainment areas. EPA believes it is reasonable to interpret provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., attainment of the NAAQS demonstrated with three consecutive years of complete, quality assured air quality monitoring data). As described below, EPA has previously interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172) so as not to require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures. As explained in a memorandum dated May 10, 1995, from John S. Seitz, Director, Office of Air Quality Planning and Standards to the Regional Air Division Directors, entitled Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard, EPA believes it is appropriate to interpret the more specific RFP, attainment demonstration and related provisions of subpart 2 in the same manner.

First, with respect to RFP, section 171(1) states that, for purposes of part D of Title I, RFP "means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the

purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone nonattainment areas (such as the 15 percent plan requirement of section 182(b)(1)), the stated purpose of RFP is to ensure attainment by the applicable attainment date.¹ If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled and EPA does not believe that the area need submit revisions providing for the further emission reductions described in the RFP provisions of section 182(b)(1).

EPA notes that it took this view with respect to the general RFP requirement of section 172(c)(2) in the General Preamble for the Interpretation of title I of the Clean Air Act Amendments of 1990 (57 FR 13498 (April 16, 1992)), and it is now extending that interpretation to the specific provisions of subpart 2. In the General Preamble, EPA stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the "requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the state will make RFP towards attainment will, therefore, have no meaning at that point." (57 FR at 13564.)²

Second, with respect to the attainment demonstration requirements of section 182(b)(1), an analogous rationale leads to the same result. Section 182(b)(1) requires that the plan provide for "such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under this Act." As with the RFP requirements, if

an area has in fact monitored attainment of the standard, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to title I, as EPA stated there that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since "attainment will have been reached." (57 FR at 13564; *see also* September 1992 Calcagni memorandum at page 6.) Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

EPA emphasizes that the lack of a requirement to submit the SIP revisions discussed above exists only for as long as an area designated nonattainment continues to attain the standard. If EPA subsequently determines that such an area has violated the NAAQS, the basis for the determination that the area need not make the pertinent SIP revisions would no longer exist. The EPA would notify the State of that determination and would also provide notice to the public in the **Federal Register**. Such a determination would mean that the area would have to address the pertinent SIP requirements within a reasonable amount of time, which EPA would establish taking into account the individual circumstances surrounding the particular SIP submissions at issue. Thus, a determination that an area need not submit one of the SIP submittals amounts to no more than a suspension of the requirement for so long as the area continues to attain the standard.

The states must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR Part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR Part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System (AIRS).

The determinations that are being made with this **Federal Register** notice are not equivalent to the redesignation of the areas to attainment. Attainment of the ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E) that must be satisfied for an area to be redesignated to attainment. To be redesignated the state must submit and receive full approval of a redesignation request for the area that satisfies all of the criteria of that section, including the

requirement of a demonstration that the improvement in the area's air quality is due to permanent and enforceable reductions and the requirements that the area have a fully approved SIP meeting all of the applicable requirements under section 110 and Part D and a fully approved maintenance plan.

Furthermore, the determinations made in this notice do not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, other nonattainment areas. EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) to require such emission reductions if necessary and appropriate to deal with transport situations.

II. Analysis of Air Quality Data

The EPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for the Ashland, Northern Kentucky, Charlotte-Gastonia, and Nashville ozone nonattainment areas in the Commonwealth of Kentucky and the States of North Carolina and Tennessee from 1992 through the present time. On the basis of that review EPA has concluded that the areas attained the ozone standard during the 1992-94 period and continue to attain the standard at this time. The monitors in the Northern Kentucky portion of the Cincinnati ozone nonattainment area have not recorded a violation of the ozone standard since 1988 and have recorded only one exceedance (Campbell County monitor) during the 1992-94 period. Additionally, all monitors in the Cincinnati ozone nonattainment area have an expected exceedance rate of less than 1.1 for the 1992-94 period. The Ashland portion of the Ashland-Huntington area has air quality data showing attainment of the standard for the period 1991-94. Both the Boyd County and Greenup County monitors have recorded 2 exceedances in the 1992-94 period. All monitors in the Ashland-Huntington area have an expected exceedance rate for the 1992-94 period of less than 1.1. All monitors in the Charlotte-Gastonia area have an expected exceedance rate of less than 1.1 for the 1992-94 period with no violations recorded at any monitor for the 1990-94 period. Two of the monitors in Mecklenburg County have recorded two exceedances during the 1992-94 period, with no exceedance at

¹ EPA notes that paragraph (1) of subsection 182(b) is entitled "Plan Provisions For Reasonable Further Progress" and that subparagraph (B) of paragraph 182(c)(2) is entitled "Reasonable Further Progress Demonstration," thereby making it clear that both the 15 percent plan requirement of section 182(b)(1) and the 3 percent per year requirement of section 182(c)(2) are specific varieties of RFP requirements.

² *See also* "Procedures for Processing Requests to Redesignate Areas to Attainment," from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992, at page 6 (stating that the "requirements for reasonable further progress * * * will not apply for redesignations because they only have meaning for areas not attaining the standard") (hereinafter referred to as "September 1992 Calcagni memorandum").

any monitor in the area during 1994. All monitors in the Nashville area have less than 1.1 expected exceedance rate. One of the two monitors located in Sumner County recorded 3 exceedances during the 1992-94 period. None of the other monitors in the Nashville ozone nonattainment area have recorded a violation since 1988. Thus, these areas are no longer recording violations of the air quality standard for ozone. A more detailed summary of the ozone monitoring data for the area is provided in the EPA technical support document dated May 19, 1995.

Final Action

EPA determines that the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, and Nashville, Tennessee, ozone nonattainment areas have attained the ozone standard and continue to attain the standard at this time. As a consequence of EPA's determination that the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, and Nashville, Tennessee, areas have attained the ozone standard, the requirements of section 182(b)(1) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures are not applicable to the areas so long as the areas do not violate the ozone standard.

The issuance of this determination will have no immediate impact on the way transportation conformity is demonstrated. These areas will continue to demonstrate conformity using the build/no-build test and less-than-1990 test (section 51.436-51.446 of the transportation conformity rule), and the 15 percent SIP if one has been submitted (and attainment/RFP SIP, if one with a budget has been submitted). Since these areas are the subject of conformity determinations pursuant to this action and will not be required to submit RFP or attainment demonstration SIPs, these areas will not generally be in the control strategy period for conformity purposes (i.e., have a control strategy SIP approved and build/no-build test no longer required) for so long as the area does not violate the standard. These areas will not have approved budgets until a maintenance plan is approved as part of the approval of a redesignation request, therefore the build/no-build test and less-than-1990 test, in addition to consistency with any applicable submitted budgets, will be required until maintenance plan approval. (A maintenance plan budget does not apply for conformity purposes until the

maintenance plan has been approved, except as provided by section 51.448(i) of the conformity rule (which applies to the Ashland, Kentucky, and Charlotte-Gastonia, North Carolina, areas which were required to submit a 15 percent SIP but submitted a maintenance plan instead.)

The Northern Kentucky area which had previously submitted a 15 percent SIP, and the Nashville, Tennessee, area which had previously submitted 15 percent and attainment SIPs, may choose to withdraw their submitted SIPs through the submission of a letter from the Governors or their designees in order to eliminate the applicability of their motor vehicle emission budgets for conformity purposes. This is because these areas will not be subject to the 15 percent and attainment demonstration requirements of section 182(b)(1) for so long as the area continues to attain the standard. If the respective submitted SIP is not withdrawn, the budget in that submittal will continue to apply for conformity purposes. If the submitted 15 percent or attainment SIP is withdrawn, only the build/no-build and less-than-1990 tests would apply until a maintenance plan is approved.

The Ashland, Kentucky, and Charlotte-Gastonia, North Carolina, areas which are already demonstrating conformity to a submitted maintenance plan pursuant to § 51.448(i) may continue to do so, or may elect to withdraw the applicability of the submitted maintenance plan budget for conformity purposes until the maintenance plan is approved. The applicability may be withdrawn through the submission of a letter from the respective Governor or his or her designee. If the applicability of the submitted maintenance plan budget is withdrawn for conformity purposes, the build/no-build test and less-than-1990 tests will apply until the maintenance plan is approved.

EPA emphasizes that these determinations are contingent upon the continued monitoring and continued attainment and maintenance of the ozone NAAQS in the affected areas. If a violation of the ozone NAAQS is monitored in the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, or Nashville, Tennessee, areas (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS), EPA will provide notice to the public in the **Federal Register**. Such a violation would mean that the area would thereafter have to address the requirements of section 182(b)(1) and section 172(c)(9) since the basis for the determination that they do not apply would no longer exist.

As a consequence of the determinations that these areas have attained and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) do not presently apply, the sanctions clocks started by EPA on January 28, 1994, for the Ashland and Charlotte-Gastonia areas for the failure to submit a section 181(b)(1) 15 percent plan and attainment demonstration and on April 1, 1994, for the Nashville area for submittal of an incomplete 15 percent plan are hereby stopped as the deficiency for which the clocks were started no longer exists.

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.

This action will become effective on August 7, 1995. However, if the EPA receives adverse comments by July 24, 1995, then the EPA will publish a document that withdraws the action, and will address those comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This determination does not create any new requirements, but allows suspension of the indicated requirements. Therefore, because the approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

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

EPA's final action does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act, upon the State. No additional costs to State, local, or tribal governments, or to the private sector, result from this action, which suspends the indicated requirements. Thus, EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 21, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds, Intergovernmental relations, Reporting and record keeping requirements.

Dated: June 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart S—Kentucky

2. Section 52.930 is amended by adding new paragraph (c) to read as follows:

§ 52.930 Control strategy: Ozone.

* * * * *

(c) Determination—EPA is determining that, as of August 7, 1995, the Cincinnati-Hamilton and Huntington-Ashland ozone nonattainment areas have attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the areas for so long as the

areas do not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Cincinnati-Hamilton or Huntington-Ashland ozone nonattainment areas, these determinations shall no longer apply.

Subpart II—North Carolina

2. Section 52.1782 is added to read as follows:

§ 52.1782 Control strategy: Ozone.

(a) Determination—EPA is determining that, as of August 7, 1995, the Charlotte-Gastonia ozone nonattainment area has attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Charlotte-Gastonia ozone nonattainment area, these determinations shall no longer apply.

(b) [Reserved]

Subpart RR—Tennessee

2. Section 52.2235 is added to read as follows:

§ 52.2235 Control strategy: Ozone.

* * * * *

(a) Determination—EPA is determining that, as of August 7, 1995, the Nashville ozone nonattainment area has attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Nashville ozone nonattainment area, these determinations shall no longer apply.

(b) [Reserved]

[FR Doc. 95-15234 Filed 6-21-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 282

[FRL-5205-7]

Underground Storage Tank Program: Approved State Program for North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of North Dakota's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective on August 21, 1995, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of North Dakota's underground storage tank program must be received by the close of business on July 24, 1995. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register**, as of August 21, 1995, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to Jo Taylor, 8HWM-WM, Hazardous Waste Management Division, Underground Storage Tank Program, U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466. Comments received may be inspected in the U.S. EPA Region 8 Library, Suite 144, at the above address from 12:00 p.m. to 4:00 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jo Taylor, Underground Storage Tank Program, U.S. EPA Region VIII, 999-18th Street, Suite 500, Denver, CO 80202-2466. Phone: (303) 293-1511.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency (EPA) to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to North Dakota (56 FR 51333, October 11, 1991). Approval was effective on December 10, 1991.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the North Dakota underground storage tank program. This codification reflects the state program in effect at the time EPA granted North Dakota approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the North Dakota program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved North Dakota program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in North Dakota, the status of federally approved requirements of the North Dakota program will be readily discernible. Only those provisions of the North Dakota underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of North Dakota's underground storage tank program, EPA has added section 282.84 to title 40 of the CFR. Section 282.84 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.84 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures, rather than the state authorized analogs to these provisions. Therefore, the approved North Dakota enforcement authorities will not be incorporated by reference. Section 282.84 lists those approved North Dakota authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.84 of codification simply lists for reference and clarity the North Dakota statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (56 FR 51333, October 11, 1991) to approve the North Dakota underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: May 2, 1995.

Jack McGraw,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is proposed to be amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.84 to read as follows:

§ 282.84 North Dakota State-Administered Program.

(a) The State of North Dakota is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the North Dakota Department of Health and Consolidated Laboratories, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the North Dakota program on October 11, 1991 and it was effective on December 10, 1991.

(b) North Dakota has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, North Dakota must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If North Dakota obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) North Dakota has final approval for the following elements submitted to EPA in North Dakota's program application for final approval and approved by EPA on October 11, 1991. Copies may be obtained from the Underground Storage Tank Program, North Dakota Department of Health Consolidated Laboratories, 1200 Missouri Avenue, Bismarck, ND 58502-5520.

(1) *State Statutes and Regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program

under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) North Dakota Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) North Dakota Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: North Dakota Century Code (NDCC), Chapter 23-20.3, Sections 23-20.3-06, 23-20.3-07 and 23-20.3-09.

(B) The regulatory provisions include: North Dakota Administrative Code, Chapter 33-24-08, Sections 33-24-08-56, 33-24-08-57 and 33-24-08-98.

(2) *Statement of Legal Authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of North Dakota on February 28, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of North Dakota to EPA, February 28, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of Procedures for Adequate Enforcement.* The "Demonstration of Procedures For Adequate Enforcement" submitted as part of the original application in April 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in April 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VIII and the North Dakota Department of Health and Consolidated Laboratories, signed by the EPA Regional Administrator on September 10, 1993, though not incorporated by reference, is referenced as part of the approved underground storage tank

program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order "North Dakota" and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

North Dakota

(a) The statutory provisions include: North Dakota Century Code (NDCC), Chapter 23-20.3, Hazardous Waste Management Act:

- Section 23-20.3-01 Declaration of Purpose.
- Section 23-20.3-02 Definitions.
- Section 23-20.3-03 Powers and Duties of the Department.
- Section 23-20.3-04 Hazardous Waste Regulations.
- Section 23-20.3-04.1 Underground Storage Tank Regulations.
- Section 23-20.3-05 Permits.
- Section 23-20.3-05.1 Fees—Deposit in Operating Fund.
- Section 23-20.3-05.2 Commercial Facility Permits and Ordinances.
- Section 23-20.3-08 Imminent Hazard.
- Section 23-20.3-10 Applicability.

(b) The regulatory provisions include: North Dakota Administrative Code (NDAC), Chapter 33-24-08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, Amended April 1992:

- Section 33-24-08-01 Applicability.
- Section 33-24-08-02 Interim Prohibition for Deferred Underground Storage Tank Systems.
- Section 33-24-08-03 Definitions (Technical Standards and Corrective Action).
- Section 33-24-08-10 Performance Standards for New Underground Storage Tank Systems.
- Section 33-24-08-11 Upgrading of Existing Underground Storage Tank Systems.
- Section 33-24-08-12 Notification Requirements.
- Section 33-24-08-20 Spill and Overfill Control.
- Section 33-24-08-21 Operation and Maintenance of Corrosion Protection.
- Section 33-24-08-22 Compatibility.
- Section 33-24-08-23 Repairs Allowed.
- Section 33-24-08-24 Reporting and Recordkeeping.
- Section 33-24-08-30 General Release Detection Requirements for All Underground Storage Tank Systems.
- Section 33-24-08-31 Release Detection Requirements for Petroleum Underground Storage Tank Systems.
- Section 33-24-08-32 Release Detection Requirements for Hazardous Substance Underground Storage Tank Systems.
- Section 33-24-08-33 Methods of Release Detection for Tanks.
- Section 33-24-08-34 Methods of Release Detection for Piping.

- Section 33-24-08-35 Release Detection Recordkeeping.
- Section 33-24-08-40 Reporting of Suspected Releases.
- Section 33-24-08-41 Investigation Due to Offsite Impacts.
- Section 33-24-08-42 Release Investigation and Confirmation Steps.
- Section 33-24-08-43 Reporting and Cleanup of Spills and Overfills.
- Section 33-24-08-50 General Release Response and Corrective Action for Underground Storage Tank Systems Containing Petroleum or Hazardous Substances.
- Section 33-24-08-51 Initial Response.
- Section 33-24-08-52 Initial Abatement Measures and Site Check.
- Section 33-24-08-53 Initial Site Characterization.
- Section 33-24-08-54 Free Product Removal.
- Section 33-24-08-55 Investigations for Soil and Ground Water Cleanup.
- Section 33-24-08-60 Temporary Closure.
- Section 33-24-08-61 Permanent Closure and Changes in Service.
- Section 33-24-08-62 Assessing the Site at Closure or Change in Service.
- Section 33-24-08-63 Applicability to Previously Closed Underground Storage Tank Systems.
- Section 33-24-08-64 Closure Records.
- Section 33-24-08-80 Applicability (financial responsibility).
- Section 33-24-08-81 Financial Responsibility Compliance Dates.
- Section 33-24-08-82 Definitions (financial responsibility).
- Section 33-24-08-83 Amount and Scope of Required Financial Responsibility.
- Section 33-24-08-84 Allowable Mechanisms and Combinations of Mechanisms.
- Section 33-24-08-85 Financial Test of Self-Insurance.
- Section 33-24-08-86 Guarantee.
- Section 33-24-08-87 Insurance and Risk Retention Group Coverage.
- Section 33-24-08-88 Surety Bond.
- Section 33-24-08-89 Letter of Credit.
- Section 33-24-08-92 Trust Fund.
- Section 33-24-08-93 Standby Trust Fund.
- Section 33-24-08-94 Substitution of Financial Assurance mechanisms by Owner or Operator.
- Section 33-24-08-95 Cancellation or Nonrenewal by Provider of Financial Assurance.
- Section 33-24-08-96 Reporting by Owner or Operator.
- Section 33-24-08-97 Recordkeeping.
- Section 33-24-08-99 Release from Requirements.
- Section 33-24-08-100 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance.
- Section 33-24-08-101 Replenishment of Guarantees, Letters of Credit, or Surety Bonds.

Proposed Rules

Federal Register

Vol. 60, No. 120

Thursday, June 22, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Parts 210, 245a, 264, and 274a

[INS No. 1399S-94]

RIN 1115-AB73

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Supplement to proposed rule.

SUMMARY: On November 23, 1993, the Immigration and Naturalization Service (the Service) published a proposed rule in the *Federal Register* at 58 FR 61846-61850, which would reduce the number of documents that were acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). A number of significant concerns regarding the agency's proposal were raised by the public and this supplement is being issued to address those concerns before proceeding with final rulemaking. This supplement proposes to simplify compliance with the employment eligibility verification requirements by further reducing the number of Service-issued documents that are acceptable for purposes of completing the Form I-9. It also contains other improvements in the system developed by the Service, including introduction of a new, more secure employment authorization document and related regulatory changes. The aim of these changes, along with reduction in the number of acceptable documents, is to produce an employment eligibility verification system that employers can use more easily and effectively. If this is accomplished, the potential for employment discrimination based on misapplication of the employment eligibility verification requirements should also be reduced.

DATES: Written comments must be submitted on or before July 24, 1995.

ADDRESSES: Please submit written comments, in triplicate, to the Director,

Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference INS number 1399S-94 on your correspondence. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Cristina Hamilton (General Counsel), telephone (202) 514-2895; David Yost (Investigations), telephone (202) 514-2998; Jackie Bednarz (Adjudications), telephone (202) 514-5014. The street address is: Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536.

SUPPLEMENTARY INFORMATION: This is a supplement to the proposed rule to reduce the number of Service-issued documents that are acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). The proposed rule was published at 58 FR 61846-61850 on November 23, 1993, and provided for a 30-day comment period which expired on December 23, 1993. The rule was proposed to further simplify compliance with the employment eligibility verification requirements and to address the concerns of employers who allege confusion created by the number of acceptable documents on the Form I-9.

During the comment period, questions were raised about retaining Federal identification documents in the employment eligibility verification process and also about sharing burdens between employers and employees in re-verifying employment eligibility.

Since the comment period, a Process Action Team (PAT team) containing representatives of various Service components has continued to discuss methods of reducing the number of documents used to verify employment eligibility. One approach that the Service anticipates will be implemented by January 1, 1996, is the introduction of a new, more secure employment authorization document (EAD), the Form I-766, that will replace two other EADs, the Form I-688A and Form I-688B.

In addition, this supplement addresses other employer sanctions-related issues discussed by the PAT team that have been raised by

legislation, regulatory changes, or Service interaction with the public. These include the changes in the Higher Education Amendments of 1992 for students enrolled in the Federal Work Study Program, and clarification of the "receipt rule" in 8 CFR 274a.2(b)(1)(vi). Also discussed is the fact that an older Alien Registration Receipt Card (Form I-151) may still be used for employment eligibility verification because of a delayed effective date of the rule terminating its validity.

Besides these matters, the supplement proposes various regulatory changes related to the introduction of the new Form I-766. This will include designation in 8 CFR 264.1 of the I-766 as evidence of alien registration for I-688A holders. Changes are proposed in 8 CFR parts 210 and 245a to accommodate changing document numbers. Other revised language in 8 CFR 274a.12(c) clarifies language in the original proposed rule specifying the regulatory basis for work authorization for legalization applicants. Also proposed is regulatory language lifting a stay on the effective date of 8 CFR 274a.14(c) which terminates the validity of various paper work permits issued by the Service before June 1, 1987.

The thrust of these changes, along with reduction in the number of acceptable documents, is to reduce uncertainty on the part of employers and make the employment eligibility verification system more effective. Another benefit of a more effective system would be to reduce the potential for employment discrimination based upon misunderstandings of the employment eligibility verification requirements.

The following is a discussion of proposed changes to the proposed rule as a result of public comments, recent legislation and regulatory changes. Also discussed are changes recommended by the Process Action Team for reducing the number of documents used to verify employment eligibility and otherwise improving the verification system.

Elimination of Federal Identification Documents

The Service has determined that eliminating Federal identification cards from the category of List B identity documents is consistent with its goal of document reduction and also is consistent with its purpose in the original proposed rule of eliminating

military documents. At least one commenter noted that the Service's intentions were unclear with respect to the elimination of military identification documents because, while removing military identification documents, it had retained Federal identification cards. The Service agrees with the commenter that failure to eliminate the Federal identification card creates confusion, as many categories of military cards meet the criteria of Federal identification documents. For that reason, and because it remains the Service's objective to eliminate as many documents as possible, the Service proposes eliminating Federal identification cards.

Modifications to Section 3 of the Form I-9

During the comment period for the proposed rule, at least two commenters, one representing a significant number of employers, expressed the view that employees should be required to complete an attestation in Section 3 of the Form I-9 during the reverification process indicating that the employee is authorized to work in the United States and disclosing any future expiration date of the employee's work authorization. These recommendations are changes which the Service had previously considered and which the Service believes have merit.

At the present time, if an employee's work authorization expires, the employer must reverify that the employee continues to be eligible to work. Reverification may be accomplished either in Section 3 of the original Form I-9 or in Section 3 of a separate Form I-9 attached to the original. For subsequent reverifications, additional Form I-9 are used. The employer satisfies this requirement by reviewing the document presented by the employee and by completing Section 3—"Updating and Reverification"—on the original Form I-9, or by attaching a new Form I-9 to the original and entering the employee's name in Section 1 and completing Section 3 of the new Form I-9. The employee must present a document which shows that he or she is currently eligible to work in the United States.

This supplement to the proposed rule proposes to amend § 274a.2(b)(1)(vii) to create a requirement that the employee sign an attestation in Section 3 of the Form I-9 during the reverification process, indicating that he or she is authorized to work in the United States. In addition, the employee will be required to check the appropriate box indicating that he or she will continue to be authorized to work in the United

States indefinitely, or that he or she will be authorized to work in the United States until a certain date. If the employee's work authorization bears a future expiration date, the employee will be required to provide this date. These proposed requirements are intended to alleviate some of the burden placed upon an employer who is presented at the time of reverification with documents purporting to show the employee's new or extended employment authorization when the employer may have a suspicion that the employee is no longer employment eligible. This will make both the employer and the employee responsible for the reverification process.

Because some employees may not be able to complete Section 3 or may need it translated, the Form I-9 will be modified to include an additional Preparer/Translator Certification block for use with Section 3. It is anticipated that the existing Preparer/Translator Certification block will be removed from Section 1. A new Section 4 will be created, and will include two Preparer/Translator Certification blocks—one for use with Section 1 when the Form I-9 is initially completed, and one for use during the reverification process when Section 3 of the Form I-9 is completed.

To more clearly reflect existing law, the Service will further modify the Form I-9 by stating on the form that the recording of the employee's Social Security number in Section 1 is voluntary. It is the Service's opinion that these changes will significantly improve the employment eligibility verification system.

Clarification of the "Receipt Rule"

From inquiries outside the Service, it has become apparent that there is a common misconception among employers that the "receipt rule" contained in 8 CFR 274a.2(b)(1)(vi) permits employers to accept receipts for applications for documents at the time of reverifying employment eligibility as well as at the time of hire. The Service recognizes that an employee may lose an employment authorization document just as easily after his or her employment eligibility has been verified as before. Thus it is logical to apply the "receipt rule" to the reverification process as well. For this reason and because the Service is proposing to require an attestation by the employee at the time of reverification, the Service believes that it is now appropriate to authorize the use of receipts at the time of reverification.

This supplement proposes to provide that if an employee is unable to present a document at the time of reverification,

the receipt for an application for a replacement document must be presented not later than the expiration of the original work authorization and the replacement document must be presented not later than 90 days after the expiration of that work authorization. This rule would retain the original language of the section providing that it does not apply to aliens who indicate that they do not have work authorization at the time of hire.

This rule would not apply to aliens who would be presenting a receipt for the application for the renewal of employment authorization. These persons must have an employment authorization document evidencing renewal of their employment authorization or interim employment authorization. If an application for employment authorization has not been adjudicated within 90 days of filing, the applicant is entitled pursuant to 8 CFR 274a.13(d) to an interim employment authorization of no more than 240 days while the application is adjudicated.

The Higher Education Amendments

The Higher Education Amendments of 1992 authorized students in the Federal Work Study Program to present to the employer original or certified copies of the documents collected and maintained by an eligible institution in the admission of the student to the institution in lieu of the documents used to establish both employment eligibility and identity.

To incorporate these changes into the employment eligibility verification system, the Service proposes to amend § 274a.2(b)(1)(v) to include these documents as List A documents. Further, the revised Form I-9 will reflect the new option, and the revised Handbook for Employers (M-274) will explain that the entire admissions package, not just selected portions of the package, must be presented to the employer to satisfy the requirements of section 274A of the Act.

Validity of Form I-151 as List A Document

On September 20, 1993, the Service published a final rule in the **Federal Register** at 58 FR 48775-48780, which terminated the validity of the Alien Registration Receipt Card, Form I-151, effective September 20, 1994. The effective date was delayed until March 20, 1995, by final rule published in the **Federal Register** at 59 FR 47063, and it was further delayed until March 20, 1996, by final rule published on March 17, 1995, at 14353. The delay in the effective dates were needed to minimize

the possibility that lawful permanent residents who apply for a replacement Form I-551, Alien Registration Receipt Card, or for naturalization have their applications adjudicated before expiration of the Form I-151 on March 20, 1996.

The final rule will remove references to the Form I-151 throughout Title 8 of the Code of Federal Regulations, including the reference to the Form I-151 as a List A document in 8 CFR 274a.2(b)(1)(v). Thus the Form I-151 will be removed as a List A document when the final rule becomes effective as anticipated on March 20, 1996.

Elimination of the Form I-688B and Introduction of a More Secure Employment Authorization Document (EAD) (Form I-766)

In another employment-related matter arising since publication of the proposed rule, the Service has determined that utilizing state-of-the-art technology at one or more of its service centers will enable the Service to produce a more secure EAD which will benefit employers, aliens who have been granted employment authorization, and the Service as well. The Service is using this supplement as a vehicle to advise the public of its intention to centralize EAD production.

Currently about one half of all EAD applications are filed and processed at the service centers through Direct Mail, and the Service plans to shift almost all remaining EAD applications to Direct Mail as a new production system becomes available in the service centers. [Direct Mail is a Service program under which the public files certain applications and petitions for benefits under the Immigration and Nationality Act (Act), as amended, at service centers instead of field offices.] This partial centralization has improved inventory control, data integrity, and overall service. It has also made the employment authorization data available for verification purposes sooner than it is from decentralized work stations.

With the introduction of the new EAD, Form I-766, Form I-688B will be eliminated. This is consistent with the overall purpose of this rule and these changes are reflected in the proposed rule. Elimination of the Form I-688A, another current version of the EAD, was previously announced in the proposed rule published at 58 FR 61846 on November 23, 1993.

It is the Service's intention to eliminate both Forms I-688A and I-688B as acceptable evidence of employment authorization as of December 31, 1996. Since all Forms I-

688A and most Forms I-688B are issued for a 1-year validity period, this elimination will be accomplished in large measure by the Service's ceasing to issue Forms I-688A and I-688B on or before December 31, 1995, at which time the I-766 will be in production.

The Service will replace any cards with validity dates beyond December 31, 1996, with Forms I-766. While the Service has directed that no Form I-688A (or sticker affixed thereto) be issued or extended to a validity date beyond December 31, 1996, an undetermined number of these documents may have been inadvertently issued or extended beyond that date. Further, the Service estimates on the basis of internal data that as of December 31, 1996, there will be approximately 30,000 Forms I-688B with validity dates beyond that date, due to exceptions to the general practice of issuance in 1-year increments.

The Service has determined that the benefits of a more secure EAD justify a requirement that still-valid Forms I-688A and I-688B alike be replaced with the Form I-766. Further, the fact that the Service's adjudications function no longer receives appropriated funds means that the cost of replacing these cards must come from user fees. In both the Independent Office Appropriation Act, 31 U.S.C. 9701(a), and legislation establishing an "Immigration Examination Fee Account," Section 286(m) of the Act, 8 U.S.C. 1356, Congress has authorized the setting of fees that recover the costs of providing services to aliens. For these reasons, the Service intends to require the standard filing fee for Form I-765 from aliens in these classes applying for replacement EADs.

Holders of Forms I-688A with expiration dates beyond December 31, 1996, will be aliens with pending applications for temporary resident status under sections 210 or 245a of the Act. Current regulations at 8 CFR 103.7(b)(1) do not address the question of fees for renewal of Forms I-688A for these persons, who applied under either section 210 on Form I-700 or under section 245a on Form I-687. However, the Service has administratively exempted this class of aliens from fees for renewal of Forms I-688A since Forms I-687 and I-700 were approved for use. For the reasons discussed above, this practice will cease with introduction of the Form I-766.

Most multiple-year Forms I-688B are issued to dependents of diplomatic, consular and international officials, as well as dependents of certain exchange visitors. Similarly, current regulations at 8 CFR 103.7(b)(1) provide no exemption

of the filing fee for the Application for Employment Authorization, Form I-765, for the dependents described above. The Service has, however, administratively exempted this class of aliens from fees since Form I-765 was approved for use. For this class, too, this practice will cease with introduction of Form I-766.

The Service will accept applications to replace with Form I-766 all Forms I-688A and I-688B carrying a validity date beyond December 31, 1996, for a specified period of time. By separate notice, the Service will inform the public of the exact dates of this application period. Further, the Service will take appropriate steps to notify holders of multiple-year Forms I-688B through the Department of State and the United States Information Agency, the government agencies with the closest liaison with the affected communities.

Other regulatory changes are also needed to reflect introduction of Form I-766. In the proposed rule published November 23, 1993, the Service proposed amending 8 CFR parts 210 and 245a to reflect replacement of Form I-688A with I-688B. Since introduction of Form I-766 will make it necessary to further amend those parts, the Service proposes to replace references to specifically numbered forms with a more general reference to "employment authorization document." Current language in those sections providing for employment authorization in 6-month increments will be made consistent with language in the new 8 CFR 274a.12(c) providing for employment authorization in increments not to exceed 1 year.

Further, to clarify the regulatory basis for work authorization in 8 CFR 274a.12 for legalization applicants under sections 210 and 245a of the Act, the Service is proposing to add a paragraph to 8 CFR 274a.12(c) to include this group in that class of aliens who must apply for employment authorization while an application is pending. A similar provision was included in the proposed rule originally published, but the language proposed in this supplement makes it clear that eligibility for employment authorization is during the period in which the legalization application is pending.

Additionally, Form I-688A is designated by existing regulation as evidence of alien registration. The Service proposes to amend 8 CFR part 264 to make Form I-766, which will replace Form I-688A, evidence of alien registration in one instance. It will be such evidence only for persons who have legalization applications under sections 210 and 245a of the Act

pending before the Service (including any period of administrative review).

With the introduction of Form I-766, it is appropriate to revisit the final rule published on June 1, 1988, at 53 FR 20086-87, staying and suspending the automatic termination provisions of 8 CFR 274a.14(c). Without the stay, employment authorizations granted by the Service before June 1, 1987, for a period beyond June 1, 1988, were to be automatically terminated by regulation. The stay was imposed "to promote clarity in the issuance of employment authorization documents" while the Service continued to investigate technologies for a secure, standardized employment authorization system.

The Service's view is that the technology behind Form I-766 represents an important step toward such a system. There may still be in circulation an undetermined number of Service-issued paper work permits issued before June 1, 1987, that fall within this regulation. It has remained the Service's intent to automatically invalidate such paper documents under the terms of 8 CFR 274a.14(c), which was stayed and suspended. Consistent with the purpose of this rulemaking, then, the Service proposes to lift the stay on termination of these documents, effective December 31, 1996. Holders of such documents would be required to obtain the new, secure Form I-766.

Overall, this requirement would further reduce the number of EADs with which employers must be familiar in order to comply with Section 274A of the Act. In that regard, it is also consistent with Service plans to terminate Forms I-688A and I-688B as employment authorization documents effective December 31, 1996.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget (OMB). As noted in the supplementary section of this rule, this action is intended to streamline and simplify compliance

with the employment eligibility verification requirements of the Act.

Executive Order 12612

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

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will not have an impact on family well-being.

The information collection requirements contained in this rule have been cleared by OMB under the provisions of the Paperwork Reduction Act. The OMB clearance number is 1115-0136.

List of Subjects

8 CFR Part 210

Aliens, Migrant labor, Reporting and recordkeeping requirements.

8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 264

Administrative practice and procedure, Aliens, Registration.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—SPECIAL AGRICULTURAL WORKERS

1. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160; 8 CFR part 2.

2. In § 210.4 paragraphs (b)(2) and (3) are revised to read as follows:

§ 210.4 Status and benefits.

* * * * *

(b) * * *

(2) *Employment and travel authorization prior to the granting of*

temporary resident status. Permission to travel abroad and to accept employment will be granted to the applicant after an interview has been conducted in connection with a nonfrivolous application at a Service office. If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments not exceeding 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the employment authorization document, that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office. Persons submitting applications who currently have work authorization incident to status as defined in § 274a.12(b) of this chapter shall be granted work authorization by the Service effective on the date the alien's prior work authorization expires. Permission to travel abroad shall be granted in accordance with the Service's advance parole provisions contained in § 212.5(e) of this chapter.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office, and upon surrender of the previously issued employment authorization card, will be issued Form I-688, Temporary Resident Card. An alien whose status is adjusted to that of a lawful temporary resident under section 210 of the Act has the right to reside in the United States, to travel abroad (including commuting from a residence abroad), and to accept employment in the United States in the same manner as aliens lawfully admitted to permanent resident.

* * * * *

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY PUBLIC LAW 99-603, THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AND PUBLIC LAW 100-204, SECTION 902

3. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

4. In § 245a.2 paragraph (n)(2) heading, and paragraphs (n)(2)(ii) and (n)(3) are revised to read as follows:

§ 245a.2 Application for temporary residence.

* * * * *

(n) * * *

(2) *Employment authorization prior to the granting of temporary resident status.*

* * * * *

(ii) If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments not exceeding 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the employment authorization document, that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office, and upon surrender of the previously issued employment authorization card, will be issued Form I-688, Temporary Resident Card, authorizing employment and travel abroad.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

5. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301-1305.

6. In § 264.1 paragraph (b) is amended by revising the entry for "Form I-688A" and by adding the entry for "Form I-766" to the listing of forms, in proper numerical sequence, to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(b) * * *

I-688A, Employment Authorization Card (until December 31, 1996). I-766, Employment Authorization—Applicants under sections 210 and 245a of the Immigration and Nationality Act, as amended, during such time as an application is pending before the Service, (including any period of administrative review).

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

7. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

8. Section 274a.2 is amended by:
a. Revising paragraphs (b)(1)(v)(a) (6) and (7);
b. Revising paragraph (b)(1)(v)(B)(I)(i); and by
c. Revising paragraphs (b)(1)(vi) and (vii), to read as follows:

§ 274a.2 Verification of employment eligibility.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(A) * * *

(6) An unexpired employment authorization document issued by the Immigration and Naturalization Service which contains a photograph, INS Form I-766, INS Form I-688, INS Form I-688A, (until December 31, 1996), or INS Form I-688B, (until December 31, 1996);

(7) For student participants in Federal Work-Study programs, documents collected and maintained by eligible institutions in the admission of those students to the institutions;

* * * * *

(B) * * *

(I) * * *

(i) A driver's license or identification card issued by a state (as defined in section 101(a)(36) of the Act), or

outlying possession (as defined in section 101(a)(29) of the Act) of the United States, provided the document contains a photograph and the following information: name, date of birth, and sex;

* * * * *

(vi) If an individual is unable to provide the required document or documents within the time periods specified in paragraphs (b)(1)(ii) and (iv) of this section, the individual must present a receipt for the application of the replacement document or documents within 3 business days of the hire and present the required document or documents within 90 days of the hire. If an individual is unable to provide the required document or documents within the time period specified in paragraph (b)(1)(vii) of this section, the individual must present a receipt for the application of the replacement document or documents not later than the date work authorization expires and present the required document or documents within 90 days of that expiration date. This section does not apply to an alien who indicates that he or she does not have work authorization at the time of hire. Nor does it apply to an alien who does not have at the time of reverification an employment authorization document evidencing renewal of employment authorization or interim employment authorization pursuant to 8 CFR 274a.13(d).

(vii) If an individual's employment authorization expires, the employer, recruiter or referrer for a fee must reverify on Form I-9 to reflect that the individual is still authorized to work in the United States; otherwise the individual may no longer be employed, recruited, or referred. Reverification on the Form I-9 must occur not later than the date work authorization expires. In order to reverify on the Form I-9, the employee or referred individual must present a document that either shows continuing employment eligibility or is a new grant of work authorization. The employer or recruiter or referrer for a fee must review this document, and if it appears to be genuine and to relate to the individual, reverify by noting the document's identification number and expiration date on the Form I-9. The employee must sign and date the Form I-9 in the appropriate block in section 3, thereby attesting that he or she is authorized to work in the United States. In addition, the employee must mark the appropriate box indicating that he or she is authorized to work in the United States indefinitely, or that he or she is authorized to work in the United States

until a certain date. If the employee's work authorization will expire, the employee must provide the expiration date in the appropriate space in section 3 of the Form I-9. If an individual is unable to complete section 3 of the Form I-9 or needs it translated, someone may assist him or her. The preparer or translator must read the Form to the employee, assist him or her in completing section 3—"Updating and Reverification," and have the individual sign or mark the Form in the appropriate place. The preparer or translator must then complete the "Preparer/Translator Certification" portion for section 3 of the Form I-9.

* * * * *

9. In § 274a.12, a new paragraph (c)(20) is added, to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *
(20) Any alien who has filed a completed legalization application pursuant to either section 210 or 245A of the Act (and either 8 CFR parts 210 or 245a). Employment authorization shall be granted in increments not exceeding 1 year during the period the application is pending (including any period when an administrative appeal is pending) and shall expire on a specified date.

* * * * *

10. In § 274a.14 paragraphs (c) (1) and (2) are revised to read as follows:

§ 274a.14 Termination of employment authorization.

* * * * *

(c) *Automatic termination of temporary employment authorization granted prior to June 1, 1987.*—(1) Temporary employment authorization granted prior to June 1, 1987 pursuant to 8 CFR 109.1(b) or its redesignation as § 274a.12(c), shall automatically terminate on the date specified by the Service on the document issued to the alien, or on December 31, 1996, whichever is earlier. Automatic termination of temporary employment authorization does not preclude a subsequent application for temporary employment authorization.

(2) A document issued by the Service prior to June 1, 1987, that authorizes temporary employment authorization for any period beyond December 31, 1996, is null and void pursuant to paragraph (c)(1) of this section, and must be surrendered to the Service on the date that the temporary employment authorization terminates or on December 31, 1996, whichever is earlier. The alien shall be issued a new

employment authorization document at the time the document is surrendered to the Service if the alien is eligible for temporary employment authorization pursuant to § 274a.12(c).

* * * * *

Dated: April 25, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-15232 Filed 6-21-95; 8:45 am]

BILLING CODE 4410-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5224-9]

Determination of Attainment of Ozone Standard by Ashland, Kentucky, Northern Kentucky (Cincinnati area), Charlotte, North Carolina, and Nashville, Tennessee, and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to determine that the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, and Nashville, Tennessee, ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone and that certain reasonable further progress and attainment demonstration requirements, along with certain related requirements, of Part D of Title I of the Clean Air Act are not applicable for so long as the areas continue to attain the ozone standard. In the final rules section of this **Federal Register**, EPA is making these determinations without prior proposal. A detailed rationale for the action 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, EPA will withdraw the direct final rule and address the comments in a subsequent final rule based on this proposed rule. 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: Comments on this action must be received by July 24, 1995.

ADDRESSES: Written comments should be mailed to: Kay Prince, Regulatory

Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

A copy of the air quality data and EPA's analysis are available for inspection at the following addresses:

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

Commonwealth of Kentucky, Division of Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601

State of North Carolina, Air Quality Section, Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, Raleigh, North Carolina 27626

Environmental Management Division, Mecklenburg County Department of Environmental Protection, 700 N. Tryon Street, Charlotte, North Carolina 28202-2236

State of Tennessee, Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311-23rd Avenue, North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555 extension 4221.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the Final Rules section of this **Federal Register**.

Dated: June 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95-15235 Filed 6-21-95; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Parts 30, 31, 70, 71, 90, 91, and 107**

[CGD 95-010]

RIN 2115-AF 11

Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules (CGD 95-010)**AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend regulations to provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection and certification. Under this proposal, the Coast Guard would issue a certificate of inspection based upon a recognized classification society's reports that the vessel complies with the International Convention for the Safety of Life at Sea, as amended (SOLAS 74/83), other applicable international conventions, classification society rules, and other specified requirements. This will reduce the burden on vessel owners and operators by eliminating duplicative plan reviews and inspections by the classification society and the Coast Guard.

DATE: Comments must be received on or before September 20, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LFA/3406) (CGD 95-010), U.S. Coast Guard Headquarters, 2200 Second Street, SW., Washington, DC 20593-0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m. weekdays, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, D.C. 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Albert G. Kirchner, Jr., Office of Marine Safety, Security and Environmental

Protection (G-MTH-4/13), Room 1304, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-0168.

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard encourages interested persons to participate in the rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 95-010) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing the Marine Safety Council at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the council determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Mr. Albert G. Kirchner, Jr., Project Manager, Office of Marine Safety, Security and Environmental Protection and Commander Thomas R. Cahill, Project Counsel, Office of Chief Counsel.

Background and Purpose

As part of its regulatory reform efforts, the Coast Guard invited the maritime industry to identify unnecessarily burdensome regulations. In response, the U.S. maritime industry submitted many comments noting the continuing pressure on the competitive position of the U.S. oceangoing merchant fleet and commercial shipbuilding industry. Members of the industry called for greater alignment of Coast Guard regulations with international standards to reduce the cost disadvantages incurred by U.S. maritime industry and thereby improve the competitiveness of the U.S. industry. These developments, together with a desire to focus more attention on human element and port

state control activities, prompted the Coast Guard to review its approach of ensuring maritime safety through vessel compliance inspections.

This proposal would be responsive to the needs expressed by the U.S. maritime industry to reduce the regulatory burden and alleviate duplication of effort between the Coast Guard and the classification societies. These processes are the culmination of one public meeting and more than 10 follow-on meetings involving all major shipbuilding and maritime operator interests in the nation. As a result of this intensive cooperative effort, the concept of alternative compliance was developed as a means of reducing adverse regulatory effects without jeopardizing safety.

As part of this review, a joint USCG/American Bureau of Shipping (ABS) task force compared the requirements in the Code of Federal Regulations (CFR), ABS Rules, the 1974 Safety of Life at Sea Convention, as amended (SOLAS 74/83), and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). The purpose of this comparison was to identify redundancies and determine if other regulations could be used in place of CFR requirements to achieve an equivalent level of safety. Over 370 separate regulatory provisions have been examined to date, and the task force has determined that many of the CFR requirements examined could be satisfied by ABS Rules, SOLAS 74, MARPOL 73/78 or combinations of the three. This led to the development of an ABS U.S. Supplement (USS). The USS addresses those areas where current Coast Guard requirements are not embodied by either ABS Rules or international conventions or, in the case of international conventions, whose interpretations are needed by the U.S. flag administration. The Coast Guard has concluded that the design requirements and survey provisions of ABS class rules, applicable international conventions, and the USS provide a level of maritime safety equivalent to corresponding Federal regulations which govern the same aspects of U.S. vessels.

Under this proposal, owners, operators, shipbuilders, and designers of U.S. flagged tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units subject to inspection under Part B of Subtitle II of 46 U.S.C. (sections 3101-4705) would have an alternative to traditional inspection by the Coast Guard. They could use the services of a recognized classification society to perform inspection and plan review

functions now performed by the Coast Guard. The cognizant Coast Guard Officer-in-Charge of Marine Inspection may issue a certificate of inspection based upon the classification society's reports that the vessel is classed and complies with applicable requirements. This alternative would free Coast Guard resources and allow the Coast Guard to move from assessing a vessel's equipment and material condition to evaluating more pressing concerns related to the human element. In addition, it would allow the Coast Guard to shift resources from inspection of U.S. vessels to port state enforcement efforts without degrading the safety of U.S. vessels. The Coast Guard would maintain oversight of this Alternative Compliance Program (ACP) through random checks of delegated tasks, monitoring of the classification society's quality system via participation in system audits and tracking demonstrated performance in identifying and correcting quality deficiencies.

Under current law, the Coast Guard may, with limited exceptions, only delegate inspection and examination functions to the ABS or similar United States classification society. Separate legislation has been introduced that would allow the Coast Guard to recognize additional classification societies. If the Coast Guard recognizes other classification societies, each classification society's rules would be examined and a separate supplement developed to be incorporated by reference in a future rulemaking.

An ACP pilot program with ABS was announced by the **Federal Register** notice of February 3, 1995 (60 FR 6687). The purpose of the pilot program is to test and evaluate the standards and procedures that have been developed in cooperation with the ABS. The Coast Guard may modify this proposal based upon the experience and findings of the ACP pilot program. In addition, the Coast Guard will use the pilot program to determine the level of resources involved in the alternate compliance process, and may adjust vessel inspection user fees through a separate rulemaking.

Discussion of Proposed Amendments

This proposal would establish alternate compliance procedures for U.S. flagged tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units. It would add new incorporation by reference sections in 46 CFR parts 30 (§ 30.01-4), 70 (§ 70.01-10) and 90 (§ 90.01-10). Each of these sections would incorporate, by reference, the

ABS Class Rules for Building and Classing Steel Vessels, 1995, and the ABS U.S. Supplement to Class Rules for Building and Classing Steel Vessels, 1995. When developed, the ABS Class Rules for Building and Classing Mobile Offshore Drilling Units would be added to the existing incorporation by reference provisions in 46 CFR 107.115. These documents are available from the American Bureau of Shipping at the address indicated in the applicable section. The Coast Guard has determined that compliance with applicable international requirements, the ABS Class rules, and respective ABS U.S. Supplement would provide a level of safety equivalent to compliance with existing regulations.

The proposal would also add new sections in 46 CFR parts 31 (§ 31.01-3), 71 (§ 71.15-5), 91 (§ 91.15-5), and 107 (§ 107.205). These sections would allow the owner or operator of a vessel subject to Coast Guard inspection for initial issuance or renewal of a certificate of inspection to submit the vessel for inspection by a recognized classification society, such as ABS. The classification society would inspect the vessel to ensure that it complies with applicable international requirements, their Class rules, and its U.S. supplement.

The owner or operator of an eligible vessel who desires to take advantage of these provisions would indicate on the Application for Inspection of U.S. Vessel (CG-3752) that the vessel has been enrolled in an accepted alternate compliance program, naming the classification society, and that the inspection would be conducted by that classification society. The cognizant Coast Guard Officer-in-Charge of Marine Inspection (OCMI) may issue a certificate of inspection (COI) based on reports from a recognized classification society, such as ABS, that the vessel complies with applicable international requirements, the classification society's rules, and its U.S. supplement.

If the OCMI declines to issue a COI even though the recognized classification society's reports indicate the vessel meets the applicable standards, the owner may appeal the OCMI's decision under 46 CFR 1.03-20. If the cognizant OCMI declines to issue a COI based on reports from the classification society that the vessel does not meet applicable standards, the vessel owner could choose to correct the deficiencies and arrange with the classification society for an additional inspection, request that the Coast Guard inspect the vessel under the other provisions of 46 CFR Ch. I, appeal the decision under 46 CFR 1.03-35, or appeal via the recognized classification

society to Chief, Merchant Vessel Inspection and Documentation Division, U.S. Coast Guard.

Regulatory Evaluation

The Coast Guard has determined the economic impact of this proposed rule change would be positive and that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposal is not significant under Executive Order 12866 and Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11040, February 26, 1979). The purpose of this rulemaking is to provide economic relief to the U.S. maritime industry without jeopardizing safety.

The Coast Guard believes this proposal, if adopted, would provide an economic benefit to the owners and operators of U.S. flagged vessels. Currently, 549 U.S. vessels may be eligible to participate in this proposed alternative compliance program. The Coast Guard estimates that while a vessel owner may have to pay an additional \$5 thousand in classification society fees for functions presently performed by the Coast Guard, the savings in design, construction and operating costs will recover this expense many times over during the lifetime of the vessel. Moreover, ships built and maintained to SOLAS 74/83, MARPOL 73/78, recognized classification society rules and accepted U.S. supplement are expected to experience greater competitiveness in the worldwide shipping market.

Additionally, streamlining the certification process will reduce time frames for Coast Guard involvement in the Certificate of Inspection process from an average of over 50 hours to 10 hours or less. Because the vessel is already inspected by the classification society, this program will reduce the duplication, decrease vessel "down time" and permit greater scheduling flexibility. Lower construction and operating costs, greater flexibility for the vessel in the global market and additional availability for vessel hire will offset the costs incurred through the alternative plan review and inspection process utilizing a recognized classification society. The Coast Guard specifically solicits comments on potential costs, savings and benefits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have significant impact on a substantial number of small entities.

"Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

This rule change provides an alternative to complying with existing regulations. The Coast Guard believes that rulemaking would have a positive economic impact if the owner chooses to participate in the alternate compliance program. This rulemaking would have no impact on vessel owners who do not choose to participate in this program. Therefore, the Coast Guard certifies that under 5 U.S.C. 605(b) this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each rulemaking which contains a collection of information requirement to determine if the practical value of the information is worth the burden imposed by its collection. Information collection requirements include reporting, recordkeeping, notification and other similar requirements.

Without changing the current Application for Vessel Inspection process, owners and operators would have the opportunity to declare whether the vessel will comply with SOLAS requirements, recognized classification society rules and their U.S. supplement or Coast Guard regulations. Since the application for inspection is already a requirement, this will not impose any additional documentation or paperwork requirements on vessel owners or operators. Under the memorandum of agreement between Coast Guard and ABS, ABS will provide a copy of its reports to the Coast Guard. Future agreements with classification societies wishing to be recognized for this program will contain similar provisions. The Coast Guard expects that the reports compiled by the classification society will be sufficient for Coast Guard review purposes. Although under this proposed rule, the classification society would only provide copies of its report to the Coast Guard with virtually no additional paperwork burden imposed, this is subject to OMB approval under the Paperwork Reduction Act.

This proposal contains collection-of-information requirements in the following sections: § 31.01-3, § 71.15-5, § 91.15-5 and § 107.205.

Dot No: New.

Administration: U.S. Coast Guard.

Title: Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules.

Need For Information: Vessel inspection reports are needed to document the compliance of a marine vessel with recognized classification society rules, the accepted U.S. supplement to rules, and applicable international maritime safety and marine environmental conventions. Classification societies recognized to participate in this program will submit copies of reports they routinely prepare to the Coast Guard.

Proposed Use of Information: The information will be used by the Coast Guard to determine if the vessel is in compliance with the requirements necessary for issuance of a Certificate of Inspection.

Frequency of Response: Reports are required whenever the recognized classification society inspects a vessel on behalf of the Coast Guard. This is generally for the initial issuance of the Certificate of Inspection (COI) and whenever the COI must be renewed. Renewal periods for vessel Certificates of Inspection are not being changed by this proposal. For tank, cargo, and miscellaneous non-nuclear vessels this period is two years; for passenger vessels over 100 gross tons and miscellaneous nuclear vessels the renewal period is one year; and for mobile offshore drilling units the renewal period is two years. A separate legislative proposal currently exists that would harmonize inspection intervals with international requirements.

Burden Estimate: There is no additional burden created by this rulemaking. The required reports are already being prepared in the course of business between the classification society and the vessel owner or operator.

Respondents: The recognized classification societies.

Forms: None.

Average Burden Hours Per Respondent: No additional burden is created by this rulemaking. The required reports are already being prepared in the course of business between the classification society and the vessel owner or operator.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined it does not have federalism requirements warranting a Federalism Assessment. The authority to regulate safety requirements of U.S. vessels is committed to the Coast Guard by statute. Furthermore, since these vessels tend to move from port to port in the national market place, these safety requirements need to be national in scope to avoid numerous, unreasonable and burdensome variances. Therefore, this action would preempt State action addressing the same matter.

Environment

Coast Guard Commandant Instruction M16475.1B, Section 2.B.2 categorically excludes inspection and equipment aspects of this rulemaking from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

The Coast Guard also considered the design and construction aspects of this rulemaking for environmental impact, and concluded that preparation of an Environmental Impact Statement is not necessary. Since the combination of classification society rules, applicable international conventions and the U.S. supplement to the rules have been determined to provide a level of safety equivalent to current Coast Guard regulations, the Coast Guard expects that this proposal will have no adverse environmental impact. A draft Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen, Incorporation by reference.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 90

Cargo vessels, Marine safety, Incorporation by reference.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels, Incorporation by reference.

PART 30—GENERAL PROVISIONS

1. The authority for part 30 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507.

2. Add new § 30.01–4 to read as follows:

§ 30.01–4 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second St., SW., Washington, DC 20593–0001, and is available from the sources listed in paragraph (b) of this section.

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

Two World Trade Center, 106th Floor, New York, NY 10048
Rules for Building and Classing Steel Vessels, 1995: 31.01–3
U.S. Supplement to ABS rules for Steel Vessels for Vessels on International Voyages, 1995: 31.01–3

PART 31—INSPECTION AND CERTIFICATION

3. The authority for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1984; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; 49 CFR 1.46.

4. Add new § 31.01–3 to read as follows:

§ 31.01–1 Alternate compliance.

(a) In lieu of compliance with other provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection (COI) may submit the vessel for classification, plan review and inspection by a recognized classification society to determine compliance with applicable international treaties and agreements, the classification society's rules, and the U.S. supplement prepared by the classification society and accepted by the Coast Guard. Recognized classification societies and accepted rules and supplements are listed in paragraph (e) of this section.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG–3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by a recognized classification society.

(c) Based on reports from a recognized classification society that a vessel complies with paragraph (a) of this section, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports indicate the vessel meets applicable standards, the vessel owner or operator may appeal as provided in subpart 1.03 of this chapter.

(d) If reports from a recognized classification society indicate that a vessel does not comply with paragraph (a) of this section, the cognizant OCMI will not issue a certificate of inspection. The vessel owner or operator may:

(1) Correct the reported deficiencies and arrange with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the recognized classification society to Chief, Merchant Vessel Inspection and Documentation Division, Commandant (G–MVI), U.S. Coast Guard, 2100 Second St. SW., Washington, D.C. 20593–0001.

(e) For the purposes of this section, the following classification societies are recognized by the Coast Guard, and their rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048

Accepted rules: Rules for Building and Classing Steel Vessels, 1995.

Accepted supplement: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 1995.

PART 70—GENERAL PROVISIONS

5. The authority for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

6. Add new § 70.01–10 to read as follows:

§ 70.01–10 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second St., SW., Washington, DC 20593–0001, and is available from the sources listed in paragraph (b) of this section.

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

Two World Trade Center, 106th Floor, New York, NY 10048

Rules for Building and Classing Steel Vessels, 1995: 71.15–5

U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 1995: 71.15–5

PART 71—INSPECTION AND CERTIFICATION

8. The authority for part 71 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 CFR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

9. Add new § 71.15–5 to read as follows:

§ 71.15–5 Alternate compliance.

(a) In lieu of compliance with other provisions of this subchapter, the owner or operator of a vessel subject to plan

review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection (COI) may submit the vessel for classification, plan review and inspection by a recognized classification society to determine compliance with applicable international treaties and agreements, the classification society's rules, and the U.S. supplement prepared by the classification society and accepted by the Coast Guard.

Recognized classification societies and accepted rules and supplements are listed in paragraph (e) of this section.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG-3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by a recognized classification society.

(c) Based on reports from a recognized classification society that a vessel complies with paragraph (a) of this section, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports indicate the vessel meets applicable standards, the vessel owner or operator may appeal as provided in subpart 1.03 of this chapter.

(d) If reports from a recognized classification society indicate that a vessel does not comply with paragraph (a) of this section, the cognizant OCMI will not issue a certificate of inspection. The vessel owner or operator may:

(1) Correct the reported deficiencies and arrange with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the recognized classification society to Chief, Merchant Vessel Inspection and Documentation Division, Commandant (G-MVI), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001.

(e) For the purposes of this section, the following classification societies are recognized by the Coast Guard, and their rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048

Accepted rules: Rules for Building and Classing Steel Vessels, 1995.

Accepted supplement: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 1995.

PART 90—GENEROUS PROVISIONS

10. The authority for part 90 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

11. Add new § 90.01-10 to read as follows:

§ 90.01-10 incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second St., SW., Washington, DC 20593-0001, and is available from the sources listed in paragraph (b) of this section.

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

Two World Trade Center, 106th Floor, New York, NY 10048

Rules for Building and Classing Steel Vessels, 1995: 91.15-5

U.S. Supplement to ABS Rules for Steel Vessels on International Voyages, 1995: 91.15-5

PART 91—INSPECTION AND CERTIFICATION

12. The authority for part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

13. Add new § 91.15-5 to read as follows:

§ 91.15-5 Alternate compliance.

(a) In lieu of compliance with other provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection (COI) may submit the vessel for classification, plan review and inspection by a recognized classification society to determine compliance with applicable international treaties and agreements, the classification society's rules, and the U.S. supplement prepared by the classification society and accepted by the Coast Guard. Recognized classification societies and accepted rules and supplements are listed in paragraph (e) of this section.

(b) A vessel may be inspected under paragraph (a) of this section only if it has not been subject to Coast Guard intervention or enforcement action for violations of this chapter within the thirty-six months preceding the inspection. A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG-3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by a recognized classification society.

(c) Based on reports from a recognized classification society that a vessel complies with paragraph (a) of this section, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports indicate the vessel meets applicable standards, the vessel owner or operator may appeal as provided in subpart 1.03 of this chapter.

(d) If reports from a recognized classification society indicate that a vessel does not comply with paragraph (a) of this section, the cognizant OCMI will not issue a certificate of inspection. The vessel owner or operator may:

(1) Correct the reported deficiencies and arrange with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter;

(3) Appeal via the recognized classification society to Chief, Merchant Vessel Inspection and Documentation Division, Commandant (G-MVI), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001.

(e) For the purposes of this section, the following classification societies are recognized by the Coast Guard, and their rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048

Accepted rules: Rules for Building and Classing Steel Vessels, 1995.

Accepted supplement: U.S. Supplement to Rules for Steel Vessels for Vessels on International Voyages, 1995

PART 107—INSPECTION AND CERTIFICATION

14. The authority for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115; 49 CFR 1.45, 146; § 107.05 also issued under authority of 44 U.S.C. 3507.

15. Add new § 107.205 to read as follows:

§ 107.205 Alternate compliance.

(a) In lieu of compliance with other provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection (COI) may submit the vessel for classification, plan review and inspection by a recognized classification society to determine compliance with applicable international treaties and agreements, the classification society's rules, and the U.S. supplement prepared by the classification society and accepted by the Coast Guard.

Recognized classification societies and accepted rules and supplements are listed in paragraph (e) of this section.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG-3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by a recognized classification society.

(c) Based on reports from a recognized classification society that a vessel complies with paragraph (a) of this section, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports indicate the vessel meets applicable standards, the vessel owner or operator may appeal as provided in subpart 1.03 of this chapter.

(d) If reports from a recognized classification society indicate that a vessel does not comply with paragraph (a) of this section, the cognizant OCMI will not issue a certificate of inspection. The vessel owner or operator may:

(1) Correct the reported deficiencies and arrange with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the recognized classification society to Chief, Merchant Vessel Inspection and Documentation Division, Command (G-MVI), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593-0001.

(e) For the purposes of this section, the following classification societies are recognized by the Coast Guard, and their rules and supplements are accepted:

[No classification societies are recognized at this time.]

Dated: June 12, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-15231 Filed 6-21-95; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17

RIN 1018-AD11

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearing on Proposed Endangered Status for Three Wetland Species in Southern Arizona and Northern Sonora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held and the comment period reopened on the proposed rule to list two plants, Canelo Hills ladies'-tresses (*Spiranthes delitescens*) and Huachuca water umbel (*Lilaeopsis schaffneriana* spp. *recurva*), and one amphibian, the Sonora tiger salamander (*Ambystoma tigrinum stebbinsi*) as endangered. The hearing and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: The public hearing will be held from 7 p.m. to 10 p.m. on July 13, 1995, in Patagonia, Arizona. The comment period for this proposal will be reopened on June 24, 1995 and will close on July 24, 1995. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: The public hearing will be held in the Multi-Purpose Room at Patagonia Union High School, on the west-side of State Highway 82 in Patagonia, Arizona. Written comments should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021-4951. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT:

Jeffrey A. Humphrey, at the above address, or phone at (602) 640-2720.

SUPPLEMENTARY INFORMATION:
Background

Canelo Hills ladies'-tresses, Huachuca water umbel, and the Sonora tiger salamander occur in a limited number of wetland habitats in southern Arizona and northern Sonora, Mexico. They are threatened by one or more of the following—collecting, disease, predation, competition with nonnative species, catastrophic floods, drought, and degradation and destruction of habitat resulting from livestock overgrazing, water diversions, dredging, and groundwater pumping. All three taxa are also threatened with stochastic extirpations or extinction due to small numbers of populations or individuals. A proposed rule to list these species as endangered was published in the **Federal Register** (60 FR 16836) on April 3, 1995.

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to two such requests, the Service will hold a public hearing on the date and at the address described above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Service. Legal notices announcing the dates, times, and locations of the hearings will be published in newspapers concurrently with the **Federal Register** notice.

The comment period on the proposal originally closed on June 2, 1995. In order to accommodate the hearing, the Service reopens the public comment period. Written comments may now be submitted until July 24, 1995, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531-1544).

Notice: Proposed rule for three wetland species in Southern Arizona and Northern Sonora; reopening of comment period and notice of public hearings.

Dated: June 16, 1995.

Nancy M. Kaufman,

Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 95-15284 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 061695B]

50 CFR Part 630**Atlantic Swordfish Fisheries; Public Hearings**

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS will hold five public hearings to receive comments from fishery participants and other members of the public regarding proposed amendments to regulations governing the Atlantic swordfish fisheries. The proposed rule would change the total allowable catch (TAC) for the Atlantic swordfish fishery in accordance with the framework procedure of the regulations. The rule proposes a reduction of the directed fishery TAC to

1,365 metric tons dressed weight for each of two semiannual periods in 1995.

To accommodate people unable to attend a hearing or wishing to provide additional comments, NMFS also solicits written comments on the proposed rule.

DATES: See **SUPPLEMENTARY INFORMATION** for dates, times, and locations of the public hearings. Written comments on the proposed rule must be received on or before July 17, 1995.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for the public hearing locations. Written comments should be sent to Richard B. Stone, Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Swordfish Comments."

FOR FURTHER INFORMATION CONTACT: Ronald Rinaldo at 301-713-2347.

SUPPLEMENTARY INFORMATION: The proposed regulatory amendments that are the subject of the hearings are necessary to improve management and monitoring of the U.S. Atlantic swordfish fisheries and to implement recommendations of the International Commission for the Conservation of Atlantic Tunas.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule (60 FR 29543, June 5, 1995) and is not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling one of the contact persons (see **FOR FURTHER INFORMATION CONTACT**).

The public hearing schedule is as follows:

Wednesday, June 28, 1995, Panama City, FL, 6-10 p.m.

Best Western Bayside Inn, 711 W. Beach Drive,

Panama City, FL 32401

Thursday, June 29, 1995, Fort Pierce, FL, 6-10 p.m.

Holiday Inn Sunshine Parkway, 7151 Okeechobee Road, Fort Pierce, FL 34945

Thursday, June 29, 1995, Boothville/Venice, LA, 6-10 p.m.

Boothville/Venice Community Center, 112 Gille Lane, Boothville, LA 70038

Friday, June 30, 1995, Manteo, NC, 6-10 p.m.

North Carolina Aquarium, Airport Rd., Manteo, NC 27954

Friday, June 30, 1995, Charleston, SC, 6-10 p.m.

South Carolina Dept. of Natural Resources, 217 Fort Johnson Road, James Island, SC 29422

The purpose of this notice is to alert the interested public of hearings and provide for public participation. In addition to these hearings the staff of NMFS Highly Migratory Species Management Division will consider invitations to provide the same material at hearings in other locations. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Richard B. Stone by June 26, 1995 (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

Dated: June 16, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-15256 Filed 6-16-95; 4:39pm]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 60, No. 120

Thursday, June 22, 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

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after June 26, 1995. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stephen Solem; Regional Appeals Coordinator; Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone (406) 329-3647.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana:
The Missoulian, Great Falls Tribune, and The Billings Gazette.

Regional Forester decisions in Northern Idaho and Eastern Washington: The Spokesman Review.

Regional Forester decisions in North Dakota—Bismarck Tribune
Beverhead—Montana Standard
Bitterroot—Ravalli Republic
Clearwater—Lewiston Morning Tribune

Custer—Billings Gazette (Montana);
Bismarck Tribune (North Dakota);
Rapid City Journal (South Dakota)

Deerlodge—Montana Standard

Flathead—Daily Interlake

Gallatin—Bozeman Chronical

Helena—Independent Record

Idaho—Spokesman Review

Idaho Panhandle—Spokesman Review

Kootenai—Daily Interlake

Lewis & Clark—Great Falls Tribune

Lolo—Missoulian

Nez Perce—Lewiston Morning Tribune.

Supplemental notices may be placed in any newspaper, but time frames/ deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: June 15, 1995.

Beryl Johnston,

Acting Deputy Regional Forester.

[FR Doc. 95-15276 Filed 6-21-95; 8:45 am]

BILLING CODE 3410-11-M

Forest Service

California Coast Province Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Province Advisory Committee will meet on July 13 and 14, 1995, for a field trip and meeting. The field trip will begin at 9 a.m., July 13, at the Sherwood Valley Rancheria Community Center, 190 Sherwood Hill Drive, Willits, California, and continue until 5:30 p.m. The field trip will visit watershed restoration projects on the Mendocino National Forest and include a presentation on watershed analysis. The meeting on July 14 will begin at 8 a.m. at the Sherwood Valley Rancheria Community Center and continue until 3 p.m. Agenda items to be covered include: (1) Open public forum; (2) PAC committee coordination with the California State Economic

Revitalization Team (State CERT); (3) Prioritization of watersheds in the province; (4) Identification and prioritization of issues to be covered by the PAC; and (5) Build agenda for next meeting. All California Coast Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (916) 934-3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, California 95988, (916) 934-3316.

Dated: June 16, 1995.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 95-15278 Filed 6-21-95; 8:45 am]

BILLING CODE 3410-FK-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-1550-00-7111-24 1A]

National Park Service

Fish and Wildlife Service

Bureau of Indian Affairs

National Biological Service

Federal Wildland Fire Management Policy and Program Review

AGENCIES: Forest Service, Agriculture; Bureau of Land Management, National Park Service, Fish and Wildlife Service, Bureau of Indian Affairs, and National Biological Service, Interior.

ACTION: Notice of draft report; request for comment.

SUMMARY: The interagency Steering Group chartered to review Federal wildfire policy and program management has prepared a draft report suggesting possible changes. Public comment is invited and will be considered by the Steering Group in preparing its final report and recommendations to the Secretaries of Agriculture and the Interior.

DATES: Comments must be submitted in writing by July 24, 1995.

ADDRESSES: Comments should be directed to:

Federal Wildland Fire Policy and Program Review, Department of the Interior, 18th and C Streets NW., Mail Stop 7355, Washington, DC 20240, or sent via FAX to (202) 208-5078.

National Interagency Fire Center, 3833 South Development Avenue, Boise, ID 83705.

See FOR FURTHER INFORMATION

CONTACT: for telephone requests for additional copies of the draft report.

FOR FURTHER INFORMATION CONTACT: Tim Hartzell, Bureau of Land Management, (202) 208-5472, or Dave Morton, USDA-Forest Service, (208) 387-5633. Additional copies of the draft report may be obtained by calling Pat Moore, BLM's National Office of Fire and Aviation, (208) 387-5150, or Janelle Smith, National Interagency Fire Center, (208) 387-5457.

SUPPLEMENTARY INFORMATION: On December 30, 1994, following one of the worst wildland fire seasons since the early 1900's, the Secretaries of Agriculture and the Interior chartered an interagency Steering Group to conduct a review of Federal wildland fire policy and programs. Composed of representatives of the Forest Service, USDA, and the Bureau of Land Management, National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, and National Biological Service, USDI, the Steering Group was directed to assess four specific themes: the role of fire in resource management; use of prescribed fire to reduce unhealthy fuel build up; preparedness and suppression; and the wildland/urban interface. The Steering Group has prepared a draft report addressing these issues as well as interagency coordinated policy and program management. The full text of the draft report is printed at the end of this notice, except for the Glossary (Appendix I) and References (Appendix II). While the draft report reinforces public and firefighter safety as the foundation for wildland fire management, it also breaks with the past on crucial points:

- The draft report would recognize fire's natural role in maintaining healthy ecosystems.
- The draft report would recommend an increased use of fire as one of many resource management tools to reduce fuel build up and to improve forest health.
- Existing plans to use fire for resource benefits stop at abstract administrative borders; the draft report would promote a mosaic of fire regimes along natural ecosystems.

- The draft report would clarify and emphasize the agency administrator's accountability for fire management.

- Current policy encourages interagency cooperation; the draft report would require that suppression, prescribed burning, planning, and research be conducted on an interagency basis across agency jurisdictions.

- Where wildlands and developed communities interface, federal fire protection practices are not consistent. The draft report would clarify federal roles in wildland fire protection as cooperating partners through agreements with responsible tribal, State, or local jurisdictions.

Public comment on the draft report is requested and will be considered by the Steering Group in developing a final report and recommendations for transmittal to and consideration by the two Secretaries.

For the Department for the Department of Agriculture.

Dated: June 13, 1995.

David G. Unger,
Associate Chief.

For the Department of the Interior.

Dated: June 14, 1995.

Sylvia V. Baca,
Acting Assistant Secretary.

Federal Wildland Fire Management Policy and Program Review; Draft Report

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Executive Summary

The Department of the Interior and the Department of Agriculture, together with Tribes, States, and other jurisdictions, are responsible for the suppression and use of wildland fire in the management and protection of natural resources. Although these organizations have traditionally cooperated in carrying out their fire management responsibilities, it is more important than ever, as resources become increasingly scarce, to explore ways in which cooperation can be improved and made more effective.

Because fire respects no boundaries, uniform Federal policies and programs must lead to more productive cooperation and efficient operations.

The Federal Wildland Fire Management Policy and Program Review was chartered by the Secretaries of the Interior and Agriculture to examine the need for modification of and addition to Federal fire policy. The review recommends a set of consistent policies for all Federal wildland fire management agencies. The resulting analysis/report is organized around five major fire management program components: (1) Coordinated Policy and Program Management, (2) Role of Fire in Resource Management, (3) Use of Prescribed Fire and Fuels Management, (4) Preparedness and Suppression, and (5) Wildland/Urban Interface Protection.

Two very fundamental principles are recognized as being basic to all other findings and recommendations in this report: (1) Safety is paramount; and (2) wildland fire is a natural occurrence that plays a fundamental role in natural resource management. We must recognize that wildfire has historically been a major force in the evolution of our wildlands, and it must be allowed to continue to play its natural role wherever possible.

The report recommends thirteen new or revised fire management policies consistent across all Federal wildland firefighting agencies. The first policy recommendation says that public and firefighter safety is the first priority. Other policies deal with integrating fire considerations into resource planning, the use of prescribed fire, capability to suppress fires, economic efficiency, protection priority, interagency actions, consistent standards, and the Federal role in the wildland/urban interface.

A set of fire management principles have been identified that address interagency collaboration in the fire management business. We recommend adoption of these principles by the Federal resource agencies. They include guidance on safety, planning, standardization, coordination, use of science, risk management, and economic efficiency.

The report recommends that some very critical processes continue to explore what role States, local governments, and insurance companies should take in addressing the growing fire problems in the wildland/urban interface. We will recommend that the Secretaries require all agencies to develop an implementation plan describing the actions and time frame required to implement the recommendations of this report.

In addition to the specific analysis that was done for this effort, the review team also relied heavily on previous fire management reviews and the work completed by the Interagency Management Review Team that was chartered following the 1994 fatalities on the South Canyon fire.

Many organizations and individuals participated in the development of this report. Special emphasis was given to communication with key national stakeholders, representatives of public and private resource interests, and employees. Public review was facilitated by publishing a scoping notice in the **Federal Register** and analyzing the resulting feedback. It is our hope that the other Federal agencies who have joined us in this review can give their support and concurrence to the final policies that evolve from this and future public involvement.

Introduction

The Federal fire management community has, for many years, been a leader in interagency communication and cooperation to achieve mutual objectives. While many policies and procedures are similar among the agencies, some significant differences may hinder efficient interagency cooperation. Because it is prudent to manage consistently across agency boundaries, uniform cooperative programs are critical to efficient and effective fire management. Policies and programs must incorporate the wisdom and experience of the past, reflect today's values, and be able to adapt to the challenges of the future. They must be based on science and sound ecological and economic principles and, above all, must form the basis for fighting and using fire safely.

While continual improvements are inherent in the fire program, the events of the 1994 wildfire season created a renewed awareness and concern among the Federal land management agencies and our constituents about the impacts of wildfire. As a result of those concerns and in response to specific recommendations in the report of the South Canyon Fire Interagency Management Review Team (IMRT), the Federal Wildland Fire Management Policy and Program Review was chartered to examine the possible need for new Federal fire policy. The review was directed by an interagency Steering Group whose members represented the Departments of Agriculture and the Interior, the U.S. Fire Administration, the National Weather Service, the Federal Emergency Management Agency, and the Environmental Protection Agency (see Appendix III).

The Steering Group received staff support from a core team representing the Departments of Agriculture and the Interior.

The five Federal fire/land management agencies referenced throughout this report are the Forest Service (FS) in the Department of Agriculture and the Bureau of Land Management (BLM), National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Indian Affairs (BIA) in the Department of the Interior. The term "Federal wildland" as used in this report recognizes that Indian trust lands are private lands held in trust by the government and that Tribes possess a Nationhood status and retain inherent powers of self-government. Indian trust resource protection will be provided in a knowledgeable, sensitive manner respectful of Tribal sovereignty.

Early in this review process, internal and external ideas were sought and broad program management issues were identified. The review was announced and input was requested in the **Federal Register** on January 3, 1995. At the same time, letters were sent to approximately 300 individuals and organizations across the nation and employee input was sought through internal communications within the Departments of the Interior and Agriculture. Since that time, Steering Group members have met with national stakeholders, the Western Governors' Association, and employees to get additional, more focused input; they have received and incorporated input resulting from the Environmental Regulation and Prescribed Fire conference held in Tampa, Florida, in March 1995; and they have individually continued to network with their constituents. The results of that process are reflected in this draft report.

Throughout the report, the term "fire" refers to wildland fire unless otherwise specified. Other terms that may not be clear to all readers are defined for the purposes of this report in Appendix I.

A number of related reviews and studies form a broad foundation of technical, professional, and scientific assessment upon which the recommended goals, actions, and policies contained in this report are founded, including:

- Final Report on Fire Management Policy—May 1989.
- Rural Fire Protection in America: A Challenge for the Future; National Association of State Foresters—1991.
- Oversight Hearing; Fire Suppression, Fire Prevention, and Forest Health Issues and Programs; Committee on Agriculture and the

Committee on Natural Resources, House of Representatives—October 4, 1994.

- National Commission on Wildfire Disasters; Sampson, Chair—1994.
- Western Forest Health Initiative Report, USDA-Forest Service—1994.
- Fire Management Strategic Assessment Report, USDA-Forest Service—1994.
- Report of the Interagency Management Review Team, South Canyon Fire—October 1994.
- Bureau of Land Management Fire and Aviation Programwide Management Review Report—April 1995.

These reviews and studies include extensive input from affected interests, agency employees, and the general public. The recommendations that have resulted from these efforts shall, as part of this review, be implemented if they are consistent with this report and have demonstrated interagency consensus.

Guiding Principles

Guiding principles represent those broad, overarching procedural tenets that apply to all fire management activities. They have their basis in current manuals, handbooks, and written program instruction. The following guiding principles are fundamental to the success of the Federal wildland fire management program and will be inherent in all Federal agency programs:

- *Public and firefighter safety is the first priority in every fire management activity.*
- *The role of fire as an essential ecological process and natural change agent will be incorporated into the planning process.* Fire management activities support the achievement of those plans.
- *Fire management plans, programs, and activities are integral components of land and resource management plans and their implementation.* Federal agency land and resource management plans set the objectives for the use and desired future condition of the various public lands.
- *Sound risk management is a foundation for all fire management activities.* Risks and uncertainties relating to fire management activities must be understood, analyzed, communicated, and managed as they relate to the cost of either doing or not doing the activity. Net gains to the public benefit will be an important component of decisions.
- *Fire management programs and activities are economically viable, based upon values at risk, costs, and land and resource management objectives.* Federal agency administrators are adjusting and reorganizing programs to

reduce costs and increase efficiencies. As part of this process, investments in fire management activities must be evaluated against all agency programs in order to effectively accomplish the overall mission, set short- and long-term priorities, and clarify management accountability.

- *Fire management plans and activities are based upon the best available science.* Knowledge and experience are developed among all wildland fire management agencies. An active fire research program combined with interagency collaboration provides the means to make this available to all fire managers.

- *Federal, State, Tribal, and local interagency coordination and cooperation is essential.* Increasing costs

and smaller work forces require that public agencies pool their human resources to successfully deal with the ever-increasing and more complex fire management tasks. Full collaboration among Federal agencies and between the Federal agencies and State, local, and private entities results in a mobile fire management workforce available to the full range of public needs.

- *Standardization of policies and procedures among Federal agencies is an ongoing objective.* Consistency of plans and operations provides the fundamental platform upon which Federal agencies can cooperate and integrate fire activities across agency boundaries and provide leadership for cooperation with State and local fire management organizations.

Current and Proposed Federal Fire Policies

Following the initial comments by employees and the public in January 1995, subject-matter experts from the Federal agencies, State and local governments, and the private sector reviewed the issues that were raised and the policies that relate to those issues. These working groups focused on policies needing change. They are displayed as "current" policies in the following table. The groups then developed proposals for revised or new policies. The results of that effort, refined by the Federal Wildland Fire Management Policy and Program Review Steering Group, are displayed in the table as "proposed" policies.

FEDERAL WILDLAND FIRE POLICIES

	Current Department of the Interior ¹	Current Forest Service ²	Proposed Federal
Safety	No wildfire situation, with the possible exception of threat to human survival, requires the exposure of firefighters to life-threatening situations.	Conduct fire suppression in a timely, effective, and efficient manner with a high regard for public and firefighter safety. Forest officers responsible for planning and implementing suppression action shall not knowingly or carelessly subordinate human lives to other values.	Public and firefighter safety is the first priority. No resource or property values are worth endangering people. All suppression actions and prescribed fire plans must reflect this commitment.
Planning	Fire will be used to achieve responsible and definable land-use benefits through the integration of fire suppression and prescribed fire as a management tool.	Integrate consideration of fire protection and use into the formulation and evaluation of land and resource management objectives, prescriptions, and practices.	Fire, as a critical natural process, will be integrated into land and resource management plans and activities on a landscape scale, across agency boundaries, and will be based upon best available science.
Prescribed Fire	Prescribed fire may be utilized to accomplish land-use or resource-management objectives only when defined in prescribed fire plans.	Use prescribed fires, from either management ignitions or natural ignitions, in a safe, carefully controlled, cost-effective manner as a means of achieving management objectives defined in Forest Plans. Prepare a burn plan for all prescribed fire projects.	Prescribed fire will be used to protect, maintain, and enhance resources, and prescribed natural fire will be allowed to function, as nearly as possible, in its natural ecological role. All prescribed fire must be consistent with land and resource management plans, public health considerations, and approved prescribed burn plans. (See above.)
Prescribed Natural Fire.	Prescribed fire, designed to accomplish the management objective of allowing naturally occurring fire to play its role in the ecosystem, will be allowed to burn if provided for in a fire management plan, a valid prescription exists, and the fire is monitored.	Allow lightning-caused fires to play, as nearly as possible, their natural ecological role in Wilderness.	
Wildfire	Fires are classified as either wildfire or prescribed fire. All wildfires will be suppressed. Wildfire may not be used to accomplish land-use and resource-management objectives. Only prescribed fire may be used for this purpose.	Wildland fires are defined as either a wildfire or a prescribed fire. Respond to a fire burning on National Forest System land based on whether it is a wildfire or a prescribed fire; implement an appropriate suppression response to a wildfire.	Wildland fire is defined as either a wildfire or a prescribed fire. Management actions taken will be consistent with firefighter and public safety, land-use plan objectives, resource benefits, and values at risk. Wildfire that does not meet land-use plan objectives will be suppressed.

FEDERAL WILDLAND FIRE POLICIES—Continued

	Current Department of the Interior ¹	Current Forest Service ²	Proposed Federal
Preparedness	Bureaus will maintain an adequate state of preparedness and adequate resources for wildland fire suppression. Preparedness plans will include considerations for cost-effective training and equipping of suppression forces, maintenance of facilities and equipment, positioning of resources, and criteria for analyzing, prioritizing, and responding to various levels of fire situations.	Plan, train, equip, and make available an organization that ensures cost-efficient wildfire protection in support of land and resource management direction as stated in Fire Management Action Plans. Base presuppression planning on the National Fire Management Analysis System.	Agencies will ensure their capability to provide safe, cost-effective fire protection in accordance with land management plans through appropriate planning, staffing, training, and equipment.
Suppression	Wildfire losses will be held to the minimum possible through timely and effective suppression action consistent with values at risk and within the framework of land-use objectives and plans.	Conduct fire suppression in a timely, effective, and efficient manner with a high regard for public and firefighter safety.	Fires are suppressed at minimum costs, considering benefits and values at risk and consistent with resource objectives.
Administrator & Employee Responsibility.	Wildfires are considered emergencies, and their suppression will be given priority over normal Departmental programs.	Every Forest Service employee has the responsibility to support and participate in wildfire suppression activities as the situation demands.	Employees who are trained and certified will participate in the wildland fire program as the situation demands; noncertified employees with operational, administrative, or other skills will support the wildland fire program as needed; and administrators will be responsible, accountable, and make employees available.
Protection Priorities.	The standard criterion to be used in establishing protection priorities is the potential to destroy: (1) Human Life, (2) Property, and (3) Resource Values. (National Interagency Mobilization Guide, March 1995, NFES 2092.).	The standard criterion to be used in establishing protection priorities is the potential to destroy: (1) Human Life, (2) Property, and (3) Resource Values. (National Interagency Mobilization Guide, March 1995, NFES 2092.).	Protection priorities are (1) life and (2) property or natural resources, based on relative values at risk, commensurate with suppression costs.
Interagency Cooperation.	Bureaus will coordinate and cooperate with each other and with other protection agencies for greater efficiency and effectiveness.	Develop and implement mutually beneficial fire management agreements with other Federal agencies and countries. Cooperate, participate, and consult with the States on fire protection for non-Federal wildlands.	Fire planning, prescription, preparedness, suppression, monitoring, and research will be conducted on an interagency basis with the involvement of all partners.
Standardization ...	The National Wildfire Coordinating Group (NWCG) provides a formalized system to agree upon standards of training, equipment, aircraft, suppression priorities, and other operational areas. (Memorandum of Understanding, NWCG; II, Function and Purpose.).	The National Wildfire Coordinating Group (NWCG) provides a formalized system to agree upon standards of training, equipment, aircraft, suppression priorities, and other operational areas. (Memorandum of Understanding, NWCG; II, Function and Purpose.).	Agencies will use consistent planning processes, funding mechanisms, training and qualification requirements, operational procedures, values-at-risk methodologies, and public education programs for all fire management activities.
Wildland/Urban Interface.	Emergency assistance may be provided to properties in the vicinity of public and Indian lands so long as Departmental lands or the public's interest is not jeopardized. Bureaus will develop and participate in interagency fire prevention cooperatives.	Structural fire suppression, which includes exterior and interior actions on burning structures, is the responsibility of State and local government. Structural fire protection from advancing wildfire within the National Forest protection boundary is the responsibility of State and local fire departments and the Forest Service.	The operational role of Federal agencies, as a partner in the wildland/urban interface, is wildland firefighting, hazard fuels reduction, cooperative prevention and education, and technical assistance. Structural fire protection is the responsibility of State and local governments. Federal agencies may assist with exterior structural suppression activities under formal agreements that state the mutual responsibilities of the partners, including funding. (The National Park Service and Bureau of Indian Affairs have full structural protection authority for their facilities on their land and may also enter into formal agreements to assist State and local governments with full structural protection.)

FEDERAL WILDLAND FIRE POLICIES—Continued

	Current Department of the Interior ¹	Current Forest Service ²	Proposed Federal
Economic Efficiency.	Bureaus will ensure that all fire management activities are planned and based upon sound considerations, including economic concerns. Bureaus will coordinate and cooperate with each other and with other protection agencies for greater efficiency and effectiveness. Wildfire damage will be held to the minimum possible, giving full consideration to minimizing expenditure of public funds for effective suppression.	Provide a cost-efficient level of wildfire protection on National Forest lands commensurate with the threat to life and property and commensurate with the potential for resource and environmental damage based on hazard, risk values, and management objectives.	Fire management and fire program activities will be based on economic efficiencies developed by using sound economic analysis methodologies that incorporate commodity, non-commodity, and social values.

¹ From current Department of the Interior Manual.

² From current USDA-Forest Service Manual.

Coordinated Policy and Program Management

Situation

In analyzing fire policy and programs, several broad components of fire management were identified as needing improvement. These issues are grouped in this section to show the need for consistency across all aspects of fire management. They include accountability, measurement of program efficiency, organization, fire management data, weather support, and legal review and policy analysis of programs, authorities, responsibilities, and liabilities.

The five Federal wildland fire management agencies have worked together for many years to improve many aspects of the fire management program. However, in order to accomplish a more unified approach to fire management, provide the maximum opportunity for reinvention of processes, and improve results, they must take this approach even further.

Program Accountability

Current mechanisms to ensure management accountability in the fire program are ineffective. Policy and guidance are unclear about agency administrators' and fire program managers' responsibilities, and their position descriptions and performance standards are vague in that regard. As a result, there is little incentive for managers to adhere to established policy and direction or to provide oversight to the program. In addition, this lack of performance criteria does not portray expectations to inexperienced administrators or fire program managers.

Most employees and many fire managers don't believe that fire accomplishments or failures, especially in suppression activities, can be measured. There is a widely held view

that line officers are not held accountable for failures or rewarded for accomplishments. This aggravates the perception that line officers can give fire activities a low priority without being held responsible for the consequences. Furthermore, there is a perception by employees that only political or public pressure affects the line officer's dealings with fire.

This perception of a lack of accountability is increased by managers not speaking out in support of the fire program, not motivating employees to become certified and be available for fire suppression duties, limiting forces available for regional or national mobilization, or de-emphasizing fire priorities. This perception is also exacerbated by line officers' broad interpretations and varying levels of implementation of policies requiring support of fire suppression activities.

Goal

Achieve an appropriate recognition of fire management program requirements and successfully fulfill managerial and technical responsibilities.

Actions

Federal agencies will:

- Develop and utilize consistent fire management qualification standards and specific selection criteria for fire program managers.
- Establish job performance standards for agency administrators and fire managers that clearly reflect the complexity and scope of the fire management responsibilities.
- Provide consistent and adequate training for agency administrators commensurate with their role and responsibility in fire management.
- Ensure that agency administrators and fire program managers are held accountable for conducting the fire program in accordance with established

policies, procedures, standards, and direction.

- Ensure that employees who are trained and certified participate in the wildland fire program as the situation demands; noncertified employees with operational, administrative, or other skills support the wildland fire program as needed; and administrators are responsible, accountable, and make employees available.

Program Efficiency

Services provided by Federal agencies are being critically scrutinized, both internally and externally, to determine the relative priority of every program and its contribution to the agency mission and the public good. As part of that scrutiny, the returns on investments in the fire program must be compared with the returns in other programs. Subsequently, every activity within the fire management program must be analyzed according to its economic efficiency. For example, presuppression activities such as prevention and preparedness must be able to display their contribution to reduced suppression costs, and prescribed fire programs must show a return in improved or restored ecosystems or reduced suppression costs.

Agency managers must be able to analyze program economic efficiency in order to establish the priority and scope of the fire management program. Current information on fire program benefits and costs are neither reliable nor consistent, and present program analysis methodologies are inadequate and inconsistent among Federal agencies. One dilemma is the question of what values should be included in such an analysis of diverse Federal wildlands; however, commodity, non-commodity, and social values all must be considered.

A growing concern shared by Members of Congress, agency

administrators, and the public is focused on the cost of fighting large wildfires. Recently, the General Accounting Office has been directed to review 1994 fire suppression expenditures in some agencies.

Some critics believe expenditures are excessive and that the crisis nature of wildfire has led to imprudent use of personnel, equipment, and supplies. Others believe that firefighting practices are not as effective as some natural forces in bringing wildfires under control and that fire suppression efforts should take better advantage of weather, terrain, fuel, and other natural conditions. In the future there is likely to be less tolerance for excessive expenditures on large-fire suppression. This type of fire activity must be analyzed for costs versus benefits. Present analysis methods have not resulted in improved practices or reinforced confidence in current suppression strategies.

Goal

A means is developed with which to demonstrate overall fire management economic efficiency as well as to analyze the relative efficiency of specific activities within the fire management program.

Action

Federal agencies will:

- Jointly develop a standard methodology for measuring and reporting fire management economic efficiency that includes commodity, non-commodity, and social values. This methodology should specifically address, among other considerations, the cost of large-fire suppression.

- Base fire management and fire program activities on economic efficiencies developed by using sound economic analysis methodologies.

Organizational Alternatives

The current focus on reinvention of the Federal government is stimulating new approaches to accomplishing agency missions. As part of this effort, Federal agencies must evaluate their fire management organizations and methods of accomplishing their total fire management program. These analyses must consider the movement to reduce the Federal role in public service, the implications of a continued reduction in work force and skills, and the effectiveness and efficiency of fire management organizations and methods, while at the same time retaining strong principles of public service. Any change in organizations or responsibilities must bring the same or better fire management service to the

public and meet the goals and objectives of the agencies' land use plans.

Each Federal agency currently maintains its own separate fire management organization, with qualified employees from other programs available as the fire situation dictates. This is commonly termed the fire militia. Federal agencies and cooperators also share resources nationally, and in some cases local interagency fire organizations exist, contract services are used, or other innovative approaches, such as the National Interagency Fire Center, the National Wildfire Coordinating Group, and the Alaska Fire Service, are being developed or used to accomplish the fire management mission. The Federal fire work force is currently decreasing at an uncomfortable rate, particularly in key specialized skills. An anticipated increase in retirements of fire managers and specialists over the next five years raises a serious question about how agencies will conduct their fire management missions. More aggressive examination and implementation of organizational alternatives are hampered by the inability to measure relative efficiencies among these alternatives as well as by strong traditions that create a resistance to change.

Goal

The most efficient and effective fire management program for Federal resources is developed, using an appropriate analysis procedure.

Actions

Federal agencies will conduct a comprehensive, cooperative analysis of their fire management programs and consider a broad range of alternatives, including non-Federal fire management services provided by Tribes, State or local governments, or private interests. The agencies will focus on developing a consistent analytical approach and evaluate alternatives against well-founded criteria. This analysis will be directed toward achieving the same or improved level of service, and at a minimum each alternative will explore funding mechanisms, specific wildfire suppression activities, and fire management in the wildland/urban interface. Each alternative will include the variables of funding the total program and funding by the benefitting party.

Data Management

Accurate, organized, and accessible information about natural resources and fire activities is the basis for coordinated agency program decisions and is critical

to effective and efficient program management.

There is currently no consistency among agencies in compiling, managing, and accessing fire data, which prevents a reliable, holistic view of the Federal fire program. Although some data, such as historical fire patterns, response to past management actions, resource values, prescribed fire statistics, and hazard mapping, have been collected, it is incomplete and is not managed and portrayed consistently. In some cases, e.g., the wildland/urban interface, the need for data is only now being identified.

Goal Federal agencies adhere to sound data management principles and achieve a coordinated Federal fire statistical database.

Actions

Federal agencies will:

- Standardize fire statistics and develop an easily accessible common database.
- Jointly identify, develop, and use tools needed for ecosystem-based fire management programs with mechanisms to integrate fire-related databases with other systems. These tools will include:
 - The collection of ecosystem-related data such as disturbance regimes, historical fire patterns, response to management actions, and others.
 - Consistent methods to track and access fire information, e.g., fire-use statistics and administrative costs.
 - Mechanisms to transfer and exchange information such as fire effects databases (e.g., Fire Effects Information System), expert systems (e.g., Fire Monitoring Navigator), Internet access, National Biological Information Infrastructure, National Wildfire Coordinating Group (NWCWG) Publications Management System documents, multimedia training and educational material, and public/private partnership information.
 - Direct the collection of a common set of prescribed fire data for use in risk assessment.
- Cooperate with the Tribes, States, and local governments to establish a data-collection mechanism, which includes involvement by the insurance industry, National Fire Protection Association, Federal Emergency Management Agency, and other Federal agencies, to better assess the nature and scope of the wildland/urban interface fire problem.
- Play a lead role in the adoption of the National Fire Incident Reporting System standards for all fire agencies that operate in the wildland/urban interface and modify existing fire

reports (Interior's DI-1202 and Forest Service's 5100-29) to reflect wildland/urban interface data.

Weather Support

Fire-weather forecasting is a sophisticated and long-standing tool used by fire managers. As fire behavior prediction techniques have improved and become paramount in fire suppression, weather support has become a critical factor. In addition, longer-term fires are demanding forecasts beyond the six- to ten-day reliable range.

Currently, fire weather services are provided, on request, by the National Weather Service as a special program in that agency; however, demands for weather support have begun to exceed the existing capability. In recent severe fire years, requests for on-the-fire units could not always be filled.

The need for nontraditional weather support is dramatically increasing. Pre-fire-season predictions are being demanded by managers in order to prioritize work loads. Long-range fire severity forecasts are commonly needed for pre-positioning suppression forces, but they are either not available or unreliable. Finally, current and future demands for prescribed-fire weather forecasts, both long-range and on-site, are far exceeding present weather-support capability. To date, evaluation of alternatives for providing weather support to the fire management program have not resulted in substantive change in the methods available to fire managers.

Goal

Appropriate options are implemented for fulfilling fire managers' current and future needs for weather services.

Actions

- The Secretaries of the Interior and Agriculture, together with the Secretary of Commerce, will evaluate alternative methods, including non-Federal sources, to provide weather service to the agencies' fire management programs.
- The Secretaries of the Interior and Agriculture will seek commitment from the Secretary of Commerce to research and develop technology to provide accurate, long-range weather forecasts.

Legal Review and Policy Analysis

New and innovative fire program activities and the increasing interconnection between fire activities and existing environmental, public health, and tort laws require legal review and policy analysis to ensure coordination and compliance. Consequences of prescribed fire

activities, where fire is allowed to play a natural role or is introduced into the wildlands, may conflict with some interpretations of existing laws or regulations. Currently, these differences are identified independently by each agency and resolved on a case-by-case basis.

Many of these issues are emerging in the wildland/urban interface zone (see Wildland/Urban Interface Protection section). In order to make the best possible decisions, agencies must have sound, consistent legal interpretation of laws and regulations and/or in-depth systematic analysis of policy. Furthermore, wildland fire management agencies must, early in the process, involve public-health and environmental regulators in developing the most workable application of policies and regulations.

Goal

Agencies have a consistent interpretation of laws and resulting policies to eliminate inconsistencies in agency fire management programs and decisions.

Actions

- Federal agencies will:
 - Identify the legal context for reintroducing fire into wildlands and develop options for accomplishment, including modifying regulations to address ecological processes where appropriate, exercising broader interpretations of policy, using the waiver process, or resolving obstacles at regional and local levels.
 - Jointly obtain legal interpretation of current policy and law regarding interagency implementation activities related to fire management, including those on non-Federal lands. Based on this interpretation, agencies can develop standardized agreements or new agreements that permit these activities.
 - Clarify and differentiate between agency liability and personal liability resulting from prescribed fire, based on legal review and interpretation of tort law.
 - The Secretaries of the Interior and Agriculture will direct the Office of the Solicitor and the Office of the General Counsel, in coordination with the Department of Justice, to conduct and publish, by January 1, 1996, a comprehensive legal review on wildland/urban interface fire protection to provide the legal foundation for Federal actions. This review will address:
 - Current authority under Federal laws such as the Organic Act, National

Forest Management Act, Stafford Act, and the Federal Land Policy and Management Act.

- The subjects of tort liability, budget authorities, cooperative agreements, mitigation activities, and natural resource protection/environmental laws.

Role of Fire in Resource Management Situation

Long before humans arrived in North America, there was fire. It came with the first lightning strike and will remain forever. Wildfire is inherently neither good nor bad. As an inevitable natural force, it is simply unpredictable and potentially destructive and, along with human activities, has altered ecosystems throughout time.

Early ecologists recognized the presence of disturbance but focused on the principle that the land continued to move toward a stable or equilibrium condition. Through the years, however, scientists have acknowledged that equilibrium conditions are largely the exception and disturbance is generally the rule. Natural forces have affected and defined landscapes throughout time. Inasmuch as humans cannot completely control or eliminate these disturbances, ecosystems will continue to change.

Human activities have also influenced ecosystem change. American Indian Tribes actively used fire in prehistoric and historic times to alter vegetation patterns. In short, people and fire and ecosystems evolved together. This human influence shifted after European settlement in North America, when it was believed that fire, unlike other natural disturbance phenomena, could and should be controlled. For many years fire was aggressively excluded to prevent what was considered the destruction of forests and other vegetation. While the destructive, potentially deadly side of fire was obvious and immediate, changes and risks resulting from these fire exclusion efforts were difficult to recognize and mounted slowly and inconspicuously over many decades.

Recently, however, there has been a growing recognition that past land-use practices such as logging and grazing, combined with the effects of fire exclusion, have resulted in heavy accumulations of dead vegetation, altered fuel arrangement, and changes in vegetative structure and composition. As dead fallen material (including tree boles, tree and shrub branches, leaves, and decaying organic matter) accumulates on the ground, it increases fuel quantity and creates a continuous

arrangement of fuel. These conditions allow surface fires to ignite more quickly, burn with greater intensity, and spread more rapidly and extensively than in the past.

The arrangement of live vegetation also affects the way fires burn. For example, an increase in the density of small trees creates a multi-storied forest structure with a continuous vertical fuel arrangement. This arrangement may allow a fire normally restricted to the ground to spread into the trees and become a crown fire. In addition to structural changes, vegetation modification resulting from fire exclusion causes a shift toward species that are not adapted to fire (some of which are not native) and are therefore more susceptible to damage from fire. Fire exclusion also favors non-native species in some fire-dependent areas, while in other areas fires may encourage non-native species. Fires in areas of altered vegetation and fuels affect other important forces within the ecosystem, such as insects and diseases, wildlife populations, hydrologic processes, and nutrient cycling, which influence the long-term sustainability of the land.

Paradoxically, rather than eliminating fire, exclusion efforts have instead dramatically altered fire regimes so that today's fires tend to be larger and more severe. No longer a matter of slow accumulation of fuels, today's conditions confront us with the likelihood of more rapid, extensive ecological changes beyond any we have experienced in the past. To address these changes and the challenge they present, we must first understand and accept the role of fire and adopt land management practices that integrate fire as an essential ecosystem process.

Although ecological knowledge and theories have changed relatively quickly, the scope and process of land management have had difficulty keeping pace. Ecological processes, including fire and other disturbance, and changing landscape conditions are often not integrated into land management planning and decisions. With few exceptions, existing land management planning is confined to individual agency boundaries and single-function goals that are driven by differing agency missions and policies. This type of planning results in an inefficient, fragmented, short-term approach to management that tends to ignore interdisciplinary-based, long-term, broad-scale resource issues that cross agency boundaries. Land management agencies now recognize the need to break down these barriers and seek cooperative, ecologically sound approaches to land management.

The process used in land management planning also hinders the broad-scale approach. One way to break down this barrier is to involve all interests, including the public, scientists, resource specialists, and regulators, throughout the planning process. Another is to establish a clear link for communication and information transfer between scientists and managers. These measures will help to ensure that management needs are met and that current science is used in land management planning at all levels.

Planning must also consider the risks, probabilities, and consequences of various management strategies, e.g., wildfire versus prescribed fire versus fire exclusion. For a responsive planning process, management decisions must be monitored, integrated and supported at each step. And to carry out critical and effective "adaptive management" (a feedback approach to management that uses monitoring results to plan future actions), planners and managers need a nationwide baseline measure of ecological condition and a standardized method of assessing long-term ecological health.

Not only must we understand and accept the need to integrate fire into land management, but this integration must be reconciled with other societal goals (e.g., maintaining species habitat, maximizing commodity production, and protecting air quality, water quality, and human health). Laws and regulations must consistently address long-term ecosystem processes and must guide agencies toward a common goal. Information about the consequences of various management strategies is not currently available to assist in working toward simultaneous goals. Land management and regulatory agencies must interact and collaborate to achieve a balance of ecosystem and other societal goals.

A major obstacle is that many people do not understand the ecological and scientific concepts behind fire. For many, fire remains a fearsome, destructive force that can and should be controlled at all costs. Smokey Bear's simple, time-honored "only you" fire prevention message has been so successful that any complex talk about the healthy, natural role of fire gets lost, ignored or denied by broad internal and external audiences.

The ecological and societal risks of using and excluding fire have not been adequately clarified and quantified to allow open and thorough discussions among managers and the public. Few understand that integrating fire into land management is not a one-time, immediate fix but a continual, long-term

process. It is not an end in itself but rather a means to a healthy end. Full agency commitment to internal and external information and education regarding fire and other ecological processes is needed. When agency employees as well as the public misunderstand or remain skeptical about the role of fire, it severely limits adaptive and innovative fire and land management. Conversely, informed constituents and well-educated employees are essential to honestly address the concerns of society.

Several roadblocks keep us from reintroducing fire on an ecologically significant scale. Even now it sometimes takes years to reach agreement about appropriate treatments and to take action. Land managers often feel the need to wait for scientific certainty before acting. This favors the status quo, impedes progress, and deters investigation of new techniques. In many ecosystems, there is little or no information about disturbance regimes, historical fire patterns, inventory data, response to past management actions, and likely future responses. This calls for a consistent, well-planned, and large-scale scientific assessment of current ecosystem conditions and consequences of various management strategies. Also, increasing human settlement near wildlands divides and fragments resource lands, making it difficult to apply new ecosystem-based management strategies. This increases the risk of escaped fires and generates more complaints about smoke and altered scenic values. A further roadblock is the current policy that calls for the suppression of all wildfires. This precludes the use of wildfire as a cost-effective means of accomplishing the objectives contained in agency land-use plans.

Fire is the most powerful natural force that mankind has learned to use. Unlike an earthquake, it can be harnessed; unlike a tornado, it can be channeled; unlike wind, it depends on complex chemical and biological relationships. And, unlike water and ice, fire is not an element; it is an event, a catalyst, and therefore a unique tool that land managers everywhere can use.

But in order to successfully integrate fire into natural resource management, informed managers, partners, and the public must build upon sound scientific principles and social values. Research programs must be developed to create this foundation of sound scientific principles. All parties must work together in the land management planning and implementation process according to agreed-upon goals for

public welfare and the health of the land.

The task before us—reintroducing fire—is both urgent and enormous. We have created conditions on millions of acres of wildlands that increase the probability of large, intense wildfires beyond any scale we have witnessed. These severe fires will in turn increase the risk to humans, to property, and to the land upon which our social and economic well-being is so intimately intertwined.

In the first decade of this century, a new policy was established that systematically excluded the natural flame across the entire nation. In recent years we have begun to understand the full extent of the risks that policy has wrought. Now, in the last decade of this century, it is our responsibility, for the health of the land and for our citizens, to carefully, systematically, and collectively bring fire back to its rightful place.

Goals—Planning

- Ecological processes, including fire, are actively incorporated into land management planning to restore and maintain sustainable ecosystems. Planning is a collaborative effort, with all interested partners working together to develop and implement management objectives that cross jurisdictional boundaries.

- The use of fire to sustain ecosystem health is based on sound scientific principles and is balanced with other societal concerns.

Actions

Federal agencies will:

- Jointly develop consistent, compatible, ecosystem-based interagency land management planning processes that facilitate adaptive management, including effective implementation, continual monitoring, and appropriate feedback to management. This process will:
 - Fully integrate ecological concepts that consider the long-term view and cross agency boundaries.
 - Involve all internal parties, including managers, scientists, resource specialists, regulators, Tribes, State and local governments, and the public. (The ongoing interagency Columbia River Basin Assessment Project may provide a model.)
 - Quickly and effectively incorporate current information, including scientific knowledge, risk assessment, social and economic concerns, and public-health considerations.
 - Include multiple scales of planning, assessment, and monitoring to address specific actions such as fire

management prescriptions for resource management on a local scale and ecosystem health on a broader scale.

- Set performance requirements and provide rewards for interdisciplinary planning and successful implementation so that team members are responsible for ecosystem health rather than single, specific targets.
- Require consistent and integrated ecosystem monitoring across agency boundaries.
- Include a mechanism to revise existing land management plans to address the above actions.

- Develop research programs that provide a sound scientific basis for the integration of fire as a positive force in resource management.

- Use a consistent fire management planning system that ensures adequate fire suppression capabilities to support fire reintroduction efforts and recognizes fire management (both fire use and fire protection) as an inherent part of natural resource management.

- Create a system for coordination and cooperation among land managers and regulators to allow for the use of fire to achieve goals of ecosystem health while at the same time protecting individual components of the environment and human health and safety. This system will:

- Allow for early collaboration during the process of developing new land management plans.
- Provide a mechanism for achieving balanced goals in existing land management plans.
- Encourage land management agencies to proactively incorporate the intent of environmental laws and regulations into their management practices to achieve a balance among societal goals (e.g., adopt consistent, state-of-the-art smoke management techniques, including smoke modeling).

Goals—Reintroduction of Fire

- Based upon sound scientific information and management objectives, fire is used to restore and maintain healthy ecosystems and to minimize undesirable fire effects, including effects on humans.

- Clearly defined management goals and objectives that include the role of prescribed fire and wildfire are developed. Resulting fire management practices and terminology are consistent for areas with similar management objectives, regardless of jurisdiction.

Actions

Federal agencies will:

- Expedite the decision-making process by developing a uniform set of criteria for evaluating ecosystem condition and prioritizing areas for the reintroduction of fire to meet resource objectives and reduce hazards. This process will identify those ecosystems:
 - That will function without fire (fire is not a significant natural component or the fire regime has not been altered).
 - Where fire is unlikely to succeed (fire would be adverse, such as areas significantly altered by fuel accumulations and species changes).
 - Where treatment is essential or potentially effective (fire is needed to improve resource conditions or reduce risk and hazard).
- Jointly conduct research, expand fire management demonstration areas, and coordinate and implement ecosystem-based fire management programs. These programs will:
 - Address today's more fragmented landscapes.
 - Address the highest-priority needs in ecosystem assessment, monitoring, and management.
 - Use existing tools and develop new ones to assist in understanding and managing for prescribed fires of greater size and intensity consistent with historic fire regimes.
 - Determine the appropriate scope of prescribed fire use, including urgency, extent, timing, and risks and consequences.
 - Be an integral part of the long-term, comprehensive land management program.
 - Revise policy to allow wildfire to be used to accomplish resource or landscape management goals when consistent with land-use plan objectives.

Goal—Education

Clear and consistent information is provided to internal and external audiences about existing conditions, management goals and objectives, the role of fire in achieving these objectives, and alternatives and consequences of various fire management strategies.

Actions

- Federal agencies will:
- Establish an interdisciplinary team that includes all agencies and regulators to design a consistent fire-role and -use message for decision makers and the public. This message will:
 - Describe and clearly explain issues such as ecosystem condition, risks, consequences (including public health impacts), and costs in open dialogue with internal and external constituents through media

campaigns, public meetings, employee training, etc.

- Be designed to maximize open communications and reduce polarization among conflicting interests regarding prescribed fire.

Build on existing efforts of the Interior Interagency Wildland Fire Education Initiative to develop and implement a strategic plan that includes education of the general public and agency personnel about the role of fire. As part of this effort, agencies will:

- Develop and transmit a clear message about the role of fire and the consequences of its use and exclusion.
- Integrate this message into existing agency communication systems.
- Tie the role-of-fire message to other agency initiatives such as forest health, ecosystem management, etc.
- Broaden the Initiative to include all interests.
- Incorporate risk assessments into the Initiative.
- Encourage, create, and coordinate partnerships to achieve consistency in messages, build public trust, and obtain public opinion.
- Recognize and use educable moments (where the attention of the public is focused on fire, e.g., fire emergencies and visible prescribed fire operations) to facilitate high-impact information and education.
- Develop mandatory national and regional interagency training programs to instill in all employees an understanding of the role of fire in natural systems.
- Commit funding and support to public information.

Use of Prescribed Fire and Fuels Management

Situation

Since the early 1900's, our national fire policy of aggressively limiting and excluding fire has unwittingly turned many wildlands into altered, high-risk fire zones. As stated in the preceding chapter, this exclusion policy has modified the living landscape, changing plant species composition as well as diversity. In many cases it has transformed a landscape of diffuse, native, fire-adapted plant species into a dense, solid, and often vulnerable fuel load of standing vegetation and ground litter. When lightning inevitably strikes, fires ignite faster, burn hotter, and spread faster and farther. These high-intensity fires are more likely to result in unacceptable environmental conditions such as sterilized or water-repellent soils, accelerated erosion, and

displacement of native vegetation by less desirable species.

Recent fire tragedies in the West have helped focus that understanding and, along with it, a consideration of how risk might be mitigated. Some areas will need immediate management intervention to prevent high-intensity fire and to maintain their sustainability as healthy ecosystems.

Prescribed fire or burning is often mentioned by land managers, fire practitioners, and scientists as a potential tool to mitigate fuels and hazards. Prescribed burning is the deliberate application of fire to wildlands to achieve specific resource management objectives. Prescribed fires may be ignited either by resource managers or by natural events such as lightning. They may be used for a number of resource management purposes, from simple fuel reduction to achieving specific responses from fire-dependent species, such as the regeneration of aspen.

When the purpose of a prescribed fire is simply to reduce the amount of fuel, alternative treatments are available. Physical removal or substantial alteration of both dead and living vegetation may be accomplished by mechanical means in areas where heavy equipment can operate. Fuel loads can also be treated by hand but at a relatively high cost. Other land management activities, such as grazing and logging, may also serve to accomplish fuel reduction. But when a land management objective is more complex, the number of acceptable treatment alternatives becomes limited. For instance, there is no alternative to the use of fire as a natural process in Wilderness.

Prescribed burning is a well-established practice utilized by most Federal, Tribal and State land management agencies as well as some private individuals and organizations. In order to use prescribed fire, land managers must prepare burn plans. Each plan specifies desired effects, weather conditions that will result in acceptable fire behavior, and the forces needed to ignite, hold, monitor, and eventually extinguish the fire. In the past, the practice of prescribed burning has been used on a relatively small scale and confined to single land ownerships or jurisdictions. Success has been built around qualified and experienced people, their understanding of vegetative types and terrain conducive to fire, adequate funding, a supportive public, and a willingness on the part of agency administrators to assume a reasonable amount of risk to achieve desired results.

Because of its potential for undesirable results, prescribed fire is one of the highest-risk activities Federal land management agencies engage in. Escaped prescribed fires can result from poorly designed or poorly executed projects, but they can also result from events beyond the control of those conducting the project, such as unpredicted winds or equipment failure. Currently, the stigma associated with an escaped prescribed fire does not distinguish between poor performance and bad luck.

Although prescribed fire is used in many areas of the United States, it is rarely used enough to significantly improve ecosystem health or reduce hazards. One reason for this is lack of commitment to the concept. While land management agencies as a whole generally recognize the role of fire as a natural process, not all individual disciplines and managers fully understand or support this role. Some managers are unwilling to accept the potential negative consequences associated with prescribed fire. Differences of opinion concerning the effect of fire on specific resources, such as cultural values, water quality, air quality, and certain flora and fauna, can also impede the process.

Another shortcoming is lack of access to qualified people. In the current atmosphere of downsizing and reduced budgets, agencies may not be able to maintain sufficient skills to accomplish broad-scale prescribed fire programs. Many of the employees who are most experienced in the application of prescribed fire are the same ones who are responsible for wildfire suppression. This can lead to potential competition for their time during the fire season. Administrative procedures also inhibit temporary hiring of personnel needed to conduct on-the-ground prescribed burning.

The direction in the Interagency Fire Business Management Handbook on hazard-duty pay also tends to limit the number of prescribed fire professionals. This guidance restricts fire-related hazard pay to activity within or adjacent to the perimeter of an uncontrolled wildfire, even though prescribed fire practitioners are exposed to as much risk if not more than firefighters engaged in suppressing wildfire.

Retirement benefits have also been a factor in career choices involving prescribed fire. However, the BLM has now recognized that, based on 5 CFR 831.900 and 842.800, prescribed fire activity qualifies for primary coverage under special firefighter retirement. In some agencies, however, it is still

considered to qualify only for secondary coverage.

To provide optimal biological benefit to forests and rangelands, the timing and intensity of prescribed fire should resemble natural occurrence.

Historically, fires were often very large; however, current land-ownership patterns and the process of funding prescribed fire are not conducive to replicating this process. For example, it is difficult to have a landscape-size project without involving lands of another ownership, and there are barriers to spending agency funds on non-agency lands. And the system does not encourage managers to plan large projects with multiple benefits located entirely on agency lands, because participation is generally limited to those program areas that will provide support and funding.

Currently, there is no consistent method to determine the potential for a prescribed fire to escape, nor is there a mechanism to compare the values at risk from an escaped fire versus those at risk by continuing to exclude fire. When a prescribed fire does escape, the only way a private property owner can be compensated more than \$2,500 is to pursue a tort claim against the Federal government. To prevail, the damaged party must prove negligence on the part of the agency. This cumbersome process leads to ill will between the managing agency and neighboring landowners and adversely affects cooperation.

Managing for landscape health requires expansion of interagency prescribed fire programs. Agencies must make a commitment with highly qualified people, from leader to practitioner, and provide funding mechanisms to conduct the program. Federal agencies must foster a work force that understands the role of fire and, at the same time, raise the level of public understanding. Public opinion and perception may limit increases in interagency prescribed fire programs. Therefore, continued Federal efforts to work collaboratively with and educate private landowners, interest groups, and the media is paramount. Education efforts should focus on exposing the public to accurate information on the social and economic benefits that result when prescribed fire is used, how natural resources may be maintained, and the risks involved, including those associated with not taking any action. Total implementation may require that the public tolerate some smoke and accept a certain amount of fire in their environment as an investment in the long-term health of the land.

Goal—Implementation

Fire is accepted as a critical process in a fully integrated program to improve forest and rangeland health. Long-term public safety and healthy ecosystems are maintained through the use of fire on all ownerships. Through funding and staffing, agencies support a significant increase in the use of fire as a resource management tool where consistent with integrated land management plans and maintenance of public health.

Actions

Federal agencies will:

- Jointly develop programs to fund and implement an expanded program of prescribed fire in fire-dependent ecosystems.

- Facilitate the planning and implementation of landscape-scale prescribed burns across agency boundaries and seek opportunities to enter into partnerships with Tribal, State and private land managers where appropriate.

- Conduct all prescribed fire projects consistent with land and resource management plans, public health considerations, and approved prescribed burn plans.

- Implement the National Wildfire Coordinating Group (NWCG) interagency prescribed fire qualification and certification system.

- Aggressively pursue the development of employee attitudes that support long-range, multi-resource management viewpoints through the use of training, performance elements, and experience.

- Seek authority to eliminate internal barriers to the transfer and use of funds for prescribed fire on non-Federal lands and among Federal agencies.

- Seek authority or provide administrative direction to eliminate barriers to carrying over from one year to the next all funds designated for prescribed fire.

Goal—Capability

Agencies collectively and cooperatively maintain an organization that can effectively plan and implement prescribed fire to meet resource management objectives.

Actions

Federal agencies will:

- Train and maintain a qualified and adequate work force to implement interagency prescribed fire projects and make them available when needed.

- Jointly develop simple, consistent hiring and contracting procedures for prescribed fire activities.

- Work with the Office of Personnel Management to acquire authority for

hazard-differential pay to compensate employees exposed to hazards while engaged in large-scale or complex prescribed fire activities.

- Clarify that prescribed fire positions qualify for primary coverage under special firefighter retirement and issue appropriate guidance to field offices.

- Make optimum use of available skills to ensure adequate focus, oversight, and safety for the prescribed fire program. Methods may include:

- Sharing personnel among agencies.

- Organizationally consolidating key fire skills within and among agencies.

- Minimizing collateral-duty assignments that compromise focus, oversight, and safety in the prescribed fire program.

- Jointly manage prescribed fire and suppression resources to ensure accomplishment of both activities concurrently.

- Explore old and new technologies that may reduce the labor-intensive nature of fire activities.

Goal—Risk Management/Support

Agencies within the Departments of Agriculture and the Interior support employees when properly planned and conducted prescribed fire projects have unfavorable outcomes.

Actions

- Federal agencies will:

- Jointly develop an assessment process that estimates the probability of success and/or failure associated with the use of prescribed fire and evaluates the potential positive and negative consequences. As a part of this process, the effects of not conducting the project will also be evaluated. Research will support this effort.

- Jointly establish partnerships and develop tools to assess, disclose, and mitigate risk from prescribed fires.

- Create an organizational climate that supports employees who implement a properly planned prescribed fire program.

- Relax current cumbersome, nonproductive requirements such as daily written management certification that a prescribed fire is burning within its prescription.

- Secretaries of the Interior and Agriculture will seek legislation allowing rapid reimbursement for non-Federal losses resulting from prescribed fires.

Preparedness and Suppression

Situation

The business of fighting wildfires is costly, time-consuming, and often

dangerous to firefighters and the public. Wildfires occur unexpectedly and create an emergency in which firefighters race to minimize harm to valuable resources or property. Firefighters can contain and limit the spread of wildfires only by preparing well ahead of time, thoroughly examining various possibilities of fire numbers and sizes, and developing contingency plans to cope with them. And only by having adequate, thoroughly trained, well-equipped firefighters can fire suppression be carried out safely. For the past ten years, an average of 67,043 fires have started each year on Federally protected wildlands, burning an average of 2,749,029 acres, an area slightly smaller than the State of Connecticut. When an exceptionally severe fire year occurs, the combined fire protection forces of Federal, Tribal, State, and local governments are challenged. In the past ten years, 1988, 1990, and 1994 were considered extreme in the number of acres burned.

In 1994, the Federal agencies with wildfire responsibilities estimate that 95 percent of wildfires were suppressed during initial attack action. Nevertheless, nearly \$1 billion was spent on the fires that escaped initial attack, and the nation experienced an enormous loss of natural resources, private property. With the loss of 34 firefighters, it was a tragic year for wildland fire; and even more sobering is that without the commitment to safety demonstrated by firefighting personnel throughout the nation, our losses could have been even greater. Important lessons were learned, including an affirmation that agency personnel at all levels, and not just those directly involved in fire suppression, must be committed to safety.

It is estimated that presently in the 11 western states there are 20 to 30 million acres of Federal lands where conditions are ripe for extremely intense, destructive wildfires. This high risk brings with it the potential for danger to human health and safety and for enormous costs and economic loss as well as severe damage to soils, watersheds, wildlife, and flora. Federal wildland fire protection agencies must continue to provide resources and new technology for early detection and quick suppression of fires. To not do so would be to put significant public and private values, as well as human lives, at unacceptable risk.

The purpose of wildfire suppression is to minimize damage to resources, property, and the environment; to minimize expenditures of public funds for effective suppression, based on

values at risk; and to provide for the safety of firefighters and the public.

Following the tragic loss of lives in the past fire season, the USDA-Forest Service and the Bureau of Land Management chartered an Interagency Management Review Team (IMRT) that focused on three key areas:

- Creating a "passion for safety" within all wildland fire suppression organizations that goes beyond traditional implementation.
- Emphasizing the importance of agency administrator duties and responsibilities in the implementation of safe fire management policies, programs, and practices.
- Monitoring performance and accountability of all personnel involved in fire and aviation management activities. This includes ensuring appropriate skills and training are acquired by administrators, program managers and staff, and all firefighting personnel.

The IMRT report includes 35 recommendations for follow-up. Many have been completed; several are more complex and are ongoing. The IMRT will complete its work June 30, 1995, but individual work groups will continue with ongoing projects until they are completed. A significant outcome of this focus on firefighting safety was a joint statement by the Secretaries of Agriculture and the Interior in May of 1995:

We are committed to "Zero Tolerance" of carelessness and unsafe actions. The commitment to and accountability for safety is a joint responsibility of firefighters, managers, and administrators. No resource or property values are worth endangering people. All land management plans and all suppression plans and actions must reflect this commitment. Individuals must be personally committed and responsible for their own performance and accountability.

The task of preparing for and suppressing fires has been accomplished through the excellent cooperation of all fire suppression organizations. With shrinking budgets and work forces and more challenging fire situations, this cooperation and coordination among Federal and non-Federal fire protection organizations becomes even more essential to provide the fire protection capability the public expects.

The Interagency Management Review Team's findings included the following:

The five Federal wildland fire agencies have each adopted separate fire management planning systems. These systems fall into two basic categories: (1) Optimization models (used by FS, BLM, and BIA) and (2) allocation models (used by NPS and FWS). Each approach has strengths and weaknesses.

Three major weaknesses shared by both approaches are the focus on single-agency initial attack, the inability to adequately assess the role of non-market or non-commodity values at risk, and the inability to adequately address "non-normal" conditions. Nevertheless, the systems currently provide the principal source of information for budget planning and for organizational configurations in each agency.

The single-agency focus and contrasting approaches of the various systems have precluded effective interagency planning, for both initial- and extended-attack situations and for geographic-area and national-level resources. The lack of capability to address non-market values has hampered the ability of the fire management programs to provide an organization that accounts for all resources and inhibits cross-agency comparisons.

While each agency has been making modifications and improvements to their own systems over the years, discussion has begun within the interagency fire community to commission a new-generation system that can be used by all agencies (including States) and that addresses the full range of fire management planning issues. In November 1993 the National Wildfire Coordinating Group (NWCG) initiated an exploratory study of developing such a system.

A next-generation fire management planning system, usable by all agencies and States, would greatly enhance the ability to analyze the full range of planning issues and provide a more efficient and effective interagency fire protection organization. Fire management planning systems must address the role that fuels management and protection of adjacent lands and structures plan in fire protection planning. Efforts to develop such a system should move forward as a priority effort in the interagency community through the NWCG.

—Taken from the report of the Interagency Management Review Team, October 1994.

This action will facilitate the interchange of forces for suppression and create a totally mobile Federal fire force.

In addition to the need for standardization, there are a number of existing policies and procedures that hinder all agencies' efforts to become more effective in preparedness and suppression. Some of those are operational and some, such as budgeting and personnel practices, are administrative. In some cases, agencies are individually attempting to solve these problems or at least temporarily fix them season to season. However, it is critical that Federal wildland fire management agencies work together to arrive at common solutions.

Some minor differences in budget processes among agencies inhibit full cooperation. Perhaps the most important issue is the separate funding requests for seasonal severity funding, where coordinated planning and

funding for pre-positioning resources on a local basis is a critical part of preparedness. Differences in the use of emergency firefighting appropriations among agencies also inhibit cooperation on prescribed fire actions. In addition, a budget problem common among Federal agencies and a barrier to full effectiveness in fire suppression is that fire organizations are often funded at less than the Most Efficient Level (MEL) for preparedness. This requires shifting funds from emergency suppression to pre-positioning resources. Standardization of budget processes and solution of some of these budget barriers would help to incrementally improve fire suppression.

A few current personnel policies have an adverse effect on Federal employees' pay while on a fire. As a result, employees are not always interested in supporting the fire suppression mission of the agencies. In some geographic areas, primarily California, the annual wage of entry-level Federal firefighters is lower than State and local firefighter salaries. Federal agencies are training firefighters only to lose qualified people to other fire-service agencies. And the Fair Labor Standards Act creates disparity in pay between exempt and nonexempt employees. In addition, the policy for hiring temporary employees is cumbersome and time consuming; these short-term employees have a restricted work year and in many geographic areas are not on the rolls long enough for the agencies to provide necessary training prior to the fire season.

Preparedness planning is critical to ensure that imminent fire situations are recognized, an appropriate level of fire protection is provided in support of land and resource management goals and objectives, and that appropriate priorities are established and actions taken. The absence of carefully developed and specific preparedness plans frequently results in poor decisions that lead to costly operational mistakes or unsafe practices during emergency situations. In contrast, well-prepared fire suppression plans generally result in smaller fires that are less costly to suppress and cause minimal damage to property and natural resources.

Reorganization and downsizing efforts are compelling Federal agencies to look at new ways to accomplish their programs, including firefighting. Retirements and organizational changes have changed the demographics and experience levels within the fire program. In some cases, agency administrators and fire management officers do not have the same level of

experience in fire management oversight as did their predecessors. Managers are often not rewarded for success or given incentives to improve. Further, the demands created by more complex natural resource issues and multiple program priorities have diverted administrators' attention away from the fire management program. Lack of oversight and attention to preparedness can result in crisis decision making. When fires become emergencies, public and political pressures may take precedence over suppression plans that are based on values at risk.

Values-at-risk estimates have been commonly used to determine strategies for large-fire suppression. Only losses in values have been considered in these calculations, because in the suppression operations, the objective as predetermined in land use plans is to put the fire out at the least total cost, which is the value of the resources (values at risk) plus suppression costs. While fire benefits have been considered in planning the fire forces for budget allocations, positive benefits of fires have not been factored into the formulation, or choice, of suppression strategies.

Use of values at risk in fire suppression has not been consistent across agencies, and the definition is too narrow without considering fire benefits as well. As mentioned above, in some cases it has been disregarded entirely. These practices contribute, sometimes significantly, to inflated fire suppression costs. The values at risk concept needs to be revised to reflect present recognition of the positive benefits of fire as compatible with agency land use objectives, as well as the need for a broader range of strategic suppression alternatives for large fires to hold costs in check and recognize limits of firefighting resources.

Standard criteria have been established to guide fire suppression priorities. These are based on the potential for the fire to destroy: (1) Human life, (2) property, and (3) resource values. Human life remains the first priority; however, a rigid second priority of property over natural resource values is being questioned by fire managers. It does not allow for flexibility to consider low-value properties relative to higher-valued natural resources. And property protection as a rigid priority is a significant contributor to inflated suppression costs as well as increased size of wildfires when limited suppression resources are concentrated to protect property. More flexibility is needed to assess the relative values

between property and natural resources in order to achieve economic efficiency.

The need for better advance preparation and more effective suppression has never been greater. The overall efficiency and effectiveness of the Federal wildland fire protection effort can be improved through consistency and better coordination. Policies and practices that have been tested and found to be inadequate can be improved through some very specific actions.

Goal—Safety

Federal employees are committed to "Zero Tolerance" of carelessness and unsafe actions.

Actions

- Federal agencies will support and enforce direction by the Secretaries of the Interior and Agriculture that:
 - Safety comes first on every fire, every time.
 - The Ten Standard Fire Orders are firm. We don't break them; we don't bend them.
 - All firefighters have the right to a safe assignment.
 - Every firefighter, every fireline supervisor, every fire manager, and every agency administrator has the responsibility to ensure compliance with established safe firefighting practices.
- Federal agencies will adopt a policy that is consistent with the Secretaries' direction for fire management safety.

Goal—Values At Risk

Federal agencies maintain preparedness planning and suppression programs that prevent unacceptable loss from fire by implementing consistent strategies based on estimates of suppression costs and damages together with benefits that may result from wildfire.

Actions

- Federal agencies will:
- Jointly redefine values at risk and clarify measures of damage and benefits that may result from fire. This will be incorporated into mobilization guides and action plans and inserted into all national training.
 - Include risk assessment in preparedness planning, with firefighter safety as a primary component.
 - Complete fire preparedness plans utilizing an interagency approach that incorporates values at risk and benefits to resources, consistent with land and resource management plans.
 - Consider a full range of suppression strategies that incorporates estimated damage and benefits to resources,

consistent with land and resource management plans.

- Document values at risk and benefits to resources in the Escaped Fire Situation Analysis to determine the most appropriate suppression strategy, based on the availability of suppression forces.

- Renegotiate State and local cooperative fire agreements in the wildland/urban interface to clarify protection responsibilities.

- Establish protection priorities that allow an evaluation of relative values at risk for property and natural resources.

Goal—Preparedness

Federal agencies maintain preparedness and suppression programs that ensure appropriate protection from fire. Agencies take special preparedness actions on a case-by-case basis in local geographic areas that have unusually severe fire danger.

Actions

Federal agencies will:

- Emphasize case-by-case special preparedness actions to ensure timely, safe, and cost-effective response to unusually severe fire potential.
- Clearly establish the organization's mission and clarify managerial and employee responsibilities in fire suppression and support activities.
- Pre-position resources on an interagency basis as needed.

- Develop interagency preparedness plans that specifically include:

- Systems for gathering information necessary to make timely fire management decisions, including fuel conditions and weather.

- Analysis and decision-making processes that consider, on an interagency basis, existing and potential fire severity; suppression resource commitment and availability; prescribed fire activity; environmental, social and political concerns; and other pertinent factors.

- Actions to be taken at each level of preparedness.

- Actions to provide increased suppression capability as the fire season develops, including accessing additional resources, pre-positioning resources, and training emergency firefighters.

- A process for delineating actions to be taken when increased suppression capability is not an option.

- A process for identifying the appropriate level of prescribed fire activity, taking into account the potential impact on suppression resources.

- A process for coordinating actions among cooperating agencies and

promptly transmitting decisions to all affected parties, including adjacent units and cooperators.

- A process for preparedness reviews and follow-up evaluation of decisions and results.

Goal—Protection Capability

Federal agencies maintain sufficient capability for suppression through interagency staffing and by removing administrative barriers to hiring and retaining qualified personnel.

Actions

- Federal agencies will:
 - Examine and ensure, on an interagency basis, employee availability at each organizational level, based on fire qualifications and other skills necessary for incident management.

- Develop and utilize to the maximum extent possible the concept of closest initial attack forces and interagency staffing for fire suppression to optimize the use of the Federal and non-Federal work force.

- Federal agencies will collaborate with the Office of Personnel Management and Congress to effect changes to:

- The Fair Labor Standards Act to remove exempt/nonexempt status of Federal employees during emergency incident management assignments.

- The hiring practices for temporary employees, which currently limit opportunities to hire and retain a highly qualified seasonal work force.

Goal—Standardization

Federal agencies improve upon existing preparedness and suppression programs by further integration of firefighting operations and by standardizing budget planning processes, budget management, and fire training.

Actions

Federal agencies will:

- Develop a standard interagency budget and staffing process which will result in the most economically efficient organization (Most Efficient Level).

- Implement adequate wildland fire suppression qualification standards, criteria, and certification procedures, utilizing the National Wildfire Coordinating Group (NWCG) to facilitate acceptance and adherence to the standards by all incident management personnel in the fire service.

- Staff existing and future fire management vacancies with people who possess the requisite knowledge, skill,

ability, and commitment to accomplish the total fire management mission.

- Recognize and reward success in interagency preparedness.

Wildland/Urban Interface Protection

Situation

Each time someone moves a mobile home into the forest or builds a house with a cedar-shingle roof in the foothills, a wildland/urban interface is created and a potentially dangerous situation grows even larger. That seemingly simple interface puts complex demands on Federal fire resources unlike anywhere else on the American landscape.

Wildland/urban interface protection is important to the Federal government because Federally managed lands are often located adjacent to private lands. In these areas, Federal wildland firefighters are often called upon to assist local agencies. In some cases, Federal agencies are the only source of fire protection. If Federal fire resources were unlimited, this would not be a problem. But with limited amounts of money, time, equipment and people, a fire burning in the interface demands that America protect its scattered structures at the huge sacrifice of natural resources elsewhere. Ultimately, the Federal government pays the bills when fire events exceed local capability, either as disaster assistance or relief through the Federal Emergency Management Agency (FEMA). This represents a significant fiscal liability to the Federal treasury and to State and local coffers as well. In addition, Federal response in the interface "spreads Federal firefighters thin" and places them in situations for which they may not be adequately trained or equipped.

Recent fires such as the 1994 Tye fire in Washington, the 1994 Chicken and Blackwell complexes in Idaho, the southern California fire siege of 1993, and the 1991 Oakland Hills fire are clear examples of the complexity of protecting the wildland/urban interface. Although recent events occurred in the West, nearly every State has experienced wildland/urban interface fire losses.

The interface has become a major fire problem that will escalate as the nation moves into the 21st century. People continue to move from urban areas to rural areas. These new wildland/urban immigrants give little thought to the wildfire hazard and bring with them their expectations for continuation of urban emergency services. The National Fire Protection Association (NFPA) estimates that since 1985 more than

9,000 homes have been destroyed by wildfire and many people have died. In 1994 it is estimated that 30–50% of all Federal wildland fire suppression dollars were spent in protecting the wildland/urban interface.

Reports such as the National Commission on Wildfire Disasters Report (1993) and Fire In Rural America (1992) document the changing demographics from urban areas to rural areas. There is limited data to quantify the extent of the current or projected growth in the wildland/urban interface; however, it is clear from recent episodes that losses will continue to increase in the future.

The fire protection problems in the wildland/urban interface are very complex, and many barriers must be overcome to address them. These barriers include legal mandates, zoning regulations, building codes, basic fire protection infrastructure, insurance/fire protection rating systems, and offset or local mutual-aid agreements. Political, social and psychological factors further complicate the problems. Obviously, there is no one simple solution.

The autonomy of Federal agencies contributes to inconsistent and sometimes conflicting policies and practices. Federal, Tribal, State, and local agencies, as well as the private sector, are all attempting to tackle the wildland/urban interface protection issue. They have created numerous reports, reviews, and mitigation plans. So far these have only revealed how fragmented and sometimes inconsistent the various approaches are, and few have had the corporate and political will to carry out solutions.

The ability of the Federal agencies to provide centralized leadership for solving the interface problem is complicated because responsibilities extend beyond the Departments of the Interior and Agriculture. The Federal Emergency Management Agency (FEMA) and U.S. Fire Administration (USFA) are also directly responsible for post-disaster assistance and training, respectively, and the Environmental Protection Agency (EPA) has regulatory responsibility concerning air quality, smoke management and other environmental issues.

But there is no central coordination, and there is no single policy that clearly defines the Federal land manager's role or requires agencies to take consistent actions in the wildland/urban interface. Only the National Park Service and Bureau of Indian Affairs have specific structure protection responsibility, and only for their facilities on their lands. Current Federal agency mission statements and operational policies vary

and generally restrict activity within these areas. As a result, Federal land managers and fire personnel are confused about their role and are inadequately trained and equipped, but in practice they are expected to provide assistance.

Confusion and debate over the role of Federal land management agencies in the wildland/urban interface is a barrier to effective fire protection and hampers solution. This was validated by public comments received during the public scoping process for this policy review and is apparent in current policies of the Federal land management agencies. Agency administrators' views on this issue cover the entire spectrum from "the Federal government has no business in the urban interface" to "Federal involvement is essential in the interface." While the debate is rhetorical, this causes confusion and operational inconsistency both before and during suppression efforts.

The current Federal wildland/urban interface policy is unclear and is limited to providing emergency assistance and cooperating in prevention efforts. But the public, homeowners, and elected officials generally have a broader perception of Federal responsibility and would oppose Federal government withdrawal from the wildland/urban interface.

Federal policy that protection priorities are (1) life, (2) property, and (3) resources limits flexibility in decision making when a wildfire occurs. Federal agencies' capability to address their resource-protection responsibilities outside of the interface is weakened by commitment of firefighting resources before and during wildland/urban interface fires. Firefighter safety is threatened as training and equipment capabilities are exceeded. In addition, after-action reports and post-incident debriefings indicate fire suppression resources assigned to wildland/urban interface fires are often "over-mobilized" and underutilized.

The Federal land management agencies consider themselves to be the premier fire suppression organization in the world (Forest Service Strategic Assessment, 1994). This is demonstrated through development of training material and public fire prevention activities related to the wildland/urban interface and results in delivery of a conflicting message about Federal protection responsibilities as compared with the responsibilities of State and local governments. Federal fire forces in the wildland/urban interface often operate beyond the role of wildfire perimeter control. Also,

operations in the wildland/urban interface are not always well organized and safe due to inconsistent qualifications, performance standards, and experience among local, State, and Federal agencies and Tribes.

Concerns over home rule and States' rights dictate that the primary responsibility for wildland/urban interface fire prevention and protection must lie with homeowners and State and local governments. This primary responsibility would be carried out in partnership with the Federal government and private sector. However, there are few State and local incentives to address the mounting risks and increasing hazards in the interface. And providing incentives, such as tax credits for mitigating fire hazards, to those who choose to live in the wildland/urban interface sends a mixed message to the public. This double-edged message is that while we discourage development in the wildland/urban interface we are willing, through mitigation tax credits, to pay homeowners to take care of their problem.

Local incentives to property owners, State and local organizations, and the private sector do appear to be an effective way to reduce the overall exposure of the Federal government in the wildland/urban interface. But the Federal government has few mechanisms to encourage incentives to resolve the problems in these areas. Current Federal grants are effective as far as they go. For example, approximately \$10 million is provided annually, primarily through the Forest Service State and Private Forestry Programs to State and local fire organizations to improve basic services, equip engines, and enhance communication systems. However, the amount is too small to address the magnitude of the problem, and Federal funding is not consistently distributed to State and local agencies with operational responsibilities in the wildland/urban interface.

While the Federal agencies have authority to seek reimbursement for fire suppression services in the wildland/urban interface, the probability of successful collection is extremely low because of a myriad of broad tort laws related to responsibility and negligence, existing State fire laws regarding point of fire origin and determination of suppression responsibility, and other legal issues such as what constitutes reasonable action and appropriate hazard mitigation.

In general, the public does not perceive a risk from fire in the wildland/urban interface. Property

owners believe that insurance companies or disaster assistance will always be there to cover losses. When people believe the government will protect them from natural hazards, the damage potential of a catastrophic event increases. Fire prevention efforts, official pronouncements, and media depictions of imminent risk have been shown to have little effect on those in danger. The effects of public education efforts have not been significant when compared to the need. Unless a catastrophic event occurs, wildland/urban interface protection issues generate little interest. There is a widespread misconception by elected officials, agency managers, and the public that wildland/urban interface protection is solely a fire-service concern.

Insurance companies may be in a position to provide the largest economic incentive to address issues locally through a change in the existing rating criteria and by supporting prevention or hazard mitigation activities. The follow-up evaluation and report on the 1991 Oakland Hills Fire suggested that a combination of fire protection infrastructure and insurance rating criteria contributed to the disaster.

There is poor communication within and between the insurance industry and fire service organizations. The insurance industry does not fully understand wildland/urban interface problems, and the public and the fire service do not understand the role of the insurance industry in the interface. Insurance Service Offices/Commercial Risk Services (ISO/CRS) rating criteria do not reflect wildland/urban interface hazards or protection needs at specific risk locations. However, there is simply no reason for structural fire departments to change protection standards from small-scale, single-incident fires to large-scale, area-based fires.

The current fire protection infrastructure, such as roads and water-delivery systems, is inadequate to protect property and resources during fast-moving wildfires, but the cost of changing the existing infrastructure would be staggering. State and local fire protection organizations are not adequately funded to provide the level of protection necessary on private lands. Most structure loss occurs in the first few hours of an incident, attributable to a lack of mitigation such as the use of combustible building materials and having trees and grass growing right up to buildings.

Because fire risk constitutes only a portion of the homeowner's insurance cost, premium reductions are not necessarily the answer. Insurance

companies can, however, help with education, improvements in building-code rating systems, and revised protection criteria in the wildland/urban interface. Antitrust laws prohibit insurance companies from working together to establish minimum insurance requirements, and in some States, laws such as the Fair Access to Insurance Requirements Plan (FAIR) give homeowners access to insurance coverage generally without regard to the wildland/urban interface.

Current organized data (including hazard mapping) does not reflect wildland/urban interface loss exposure. Without a consistent process that assesses wildland/urban interface hazard and risk, it is difficult to identify appropriate mitigation measures. State and local communities perceive determination of risk as a local issue. Because lost homes/structures are replaced by national insurance companies and Federal Disaster Assistance comes regardless of whether appropriate mitigation measures were taken to offset risk, there is no incentive to improve protection in the wildland/urban interface. What's more, developers, builders, and property owners generally oppose standards because they fear potential building restrictions and higher costs.

Current protection programs and policies do not include all urban and wildland fire protection entities with statutory responsibility, which has led to inefficiencies in training and operations. Wildland suppression resources are often diverted to protect property with less value than adjacent or intermixed natural resources, and the safety of wildland fire personnel is compromised. Performance qualifications in the wildland/urban interface are divided between the structural and wildland certification systems, resulting in inconsistencies.

Partially because of fire prevention campaigns like Smokey Bear, the public generally views all fire as bad. Structural fire prevention activities do not reflect the beneficial role of fire in the ecosystem and send conflicting messages to the public. However, there are excellent examples of successful programs, such as the Sierra Front Cooperative, which demonstrate the value of prevention efforts when combined with property-owner support to mitigate hazards within the wildland/urban interface.

Current Federal wildland/urban interface fire policy does not lay out a clear, consistent, and unified role for the Federal land managing agencies. Consequently, some Federal agencies perceive they bear the heaviest burden

in mutual-aid relationships. Some administrators enter into agreements committing Federal firefighters, equipment, and money without understanding the implications of their actions. Still others are confused about the difference between Federal mutual-aid assistance, offset-protection agreements, and Federal Emergency Management Agency (FEMA) financial assistance to States on declared major fire disasters.

The key to solving the total wildland/urban interface problem rests with development of a unified, collaborative partnership among Federal agencies, Tribes, States, local governments, and private industry. This fire protection and prevention issue cannot be solved by any one entity acting independently. This partnership should identify and map hazards and fuels, conduct a national fire insurance feasibility review, and establish mitigation grant mechanisms for local communities. Meanwhile, these long-term issues do not preclude Federal agencies from developing a consistent policy for wildland/urban protection on the lands that they administer.

Goals—Responsibility

- Wildland/urban interface policies are consistent among Federal agencies.
- Federal agencies address wildland/urban interface protection needs occurring on Federal lands through interagency planning and analysis across agency boundaries.
- Uniform Federal wildland/urban interface fire protection policy promotes partnerships with Tribes, State and local agencies, and the private sector.

Actions

- Federal agencies will:
- Adopt a policy that establishes the operational role of Federal agencies in the wildland/urban interface.
 - Identify and fund fuels management and prescribed fire programs on Federal lands adjacent to wildland/urban interface areas.
 - Reassess the proper forum for addressing wildland/urban interface issues upon completion of the Stakeholder Input, Consensus, and Action Process. This may include:
 - Expanding representation on the current wildland/urban task group that reports to the National Wildfire Coordinating Group (NWCG).
 - Revising membership in NWCG itself to include a representative of entities involved with wildland/urban interface issues (e.g., professional organizations such as the International Association of Fire Chiefs, International Association of

Fire Fighters, International Society of Fire Service Instructors, National Volunteer Fire Council, Insurance Institute for Property Loss Reduction, et al.).

Goal—Preparedness

- Agreements (mutual-aid, reciprocal, offset, etc.) are developed and promoted to provide for pre-fire mitigation activities as well as appropriate suppression operations.

- Structural and wildland fire agency roles in the wildland/urban interface are clarified for both day-to-day mutual aid and large-fire scenarios.

- Federal agencies properly train and equip personnel to ensure firefighter safety during wildland/urban interface operations.

- Cooperative partnerships are established with Tribes and State and local agencies for emergency preparedness and operations in the wildland/urban interface.

Actions

Federal agencies will:

- Inform agency administrators of mutual-aid and FEMA disaster-assistance programs.

- Complete a review of existing protection agreements for wildland/urban interface areas and renegotiate as needed to ensure that Federal responsibility is consistent with policy and that State and local responsibility is apportioned appropriately.

- Acknowledge their role in the wildland/urban interface, consistent with policy, and incorporate the appropriate role into agreements, operating plans, land management plans, and agency fire plans.

- Charge the National Wildfire Coordinating Group with:

- Developing operational curricula, in cooperation with the National Fire Academy, for protection in the wildland/urban interface;

- Identifying specialized skills and training that are needed by both wildland and structural fire agencies;

- Implementing training through interagency systems and joint training activities; and

- Working with the National Fire Academy to augment and enhance fire training not available at the State and local levels.

- Incorporate into the Wildland Fire Qualification System the skills and training requirements necessary to operate safely and efficiently in the wildland/urban interface.

- Increase emphasis on cost-share grant funding through the Forest Service State and Private Cooperative Fire

Program and strengthen that program's emphasis on wildland/urban interface issues, including training and equipping of State and local agencies. Assess and revise, as needed, other mechanisms to ensure funding is directed to agencies with wildland/urban interface responsibilities. Emphasize funding and grants to the United States Fire Administration for similar purposes.

- Support research and development activities through the National Fire Protection Association for effective management of the wildland/urban interface.

Goal—Education

Identify and initiate programs to communicate the role of fire in natural systems, with special focus on risk in wildland/urban interface areas.

Actions

Federal agencies will:

- Continue to cooperate with wildland/urban interface property owners through education and awareness messages about the role of fire in natural ecosystems and inherent risks in wildland/urban interface areas.

- Develop programs, curricula, and distribution systems, in cooperation with structural protection agencies, for wildland/urban interface educational material.

- Promote Federally funded education efforts via a consortium of the United States Fire Administration and the insurance industry.

- Work with the United States Fire Administration to update and distribute to the fire service their primer on the insurance industry.

- Involve the Congressional Fire Services Institute in distributing information regarding wildland/urban interface issues and actions.

Goals—Stakeholder Input, Consensus, and Action Process

- Future policy/program requirements for public fire protection within the wildland/urban interface are identified through a partnership among Federal, Tribal, State, local, and private entities.

- Infrastructure protection is based on characteristics of structural and wildland fuels within the wildland setting.

- Responsibility is focused on individual property owners and State and local governments to reduce losses within the wildland urban interface.

Actions

Federal agencies will:

- Form a partnership with the Western Governors—Association (WGA) to

conduct a consensus-building and action process that involves the western governors as a catalyst and other appropriate States, as well as local and private stakeholders, in establishing recommendations and an action plan to achieve a uniform, integrated approach to fire protection in the wildland/urban interface.

- Recharter the current interagency wildland/urban interface project among the Department of the Interior, Department of Agriculture, and U.S. Fire Administration to focus on issues surfaced through this policy review.

- The objective of the partnership with the WGA is to:

- Identify and involve all stakeholders within the wildland/urban interface.

- Define appropriate State and local roles.

- Clarify and synthesize issues; build consensus.

- Develop implementing actions and monitoring processes.

- The issues/areas to be addressed by the WGA include but are not limited to:

- The need for coordinated leadership among Federal, Tribal, State, and local entities concerning the wildland/urban interface.

- Development of a consistent wildland/urban interface hazard and risk assessment model that, as a minimum, includes common terminology, rating criteria, and a classification system.

- Model zoning and building code standards within identified fire hazard areas.

- The need for State, local, insurance-industry, and Federal data to analyze and manage the wildland/urban interface, which includes:

- All fires in the wildland/urban interface.

- The National Fire Incident Reporting System (NFIRS) as an information collection point for fire incidents in the wildland/urban interface.

- Establishment of incentives to individuals and local governments to mitigate hazards.

- Recommendations relating to the role and membership of the National Wildfire Coordinating Group. Consider all entities involved with wildland/urban interface issues, including professional organizations such as the International Association of Fire Chiefs, International Association of Fire Fighters, International Society of Fire Service Instructors, National Volunteer Fire Council, Insurance Institute for Property Loss Reduction, et al.

- Involvement with the insurance industry through the Insurance Institute

for Property Loss Reduction (IIPLR) and other insurance trade associations to cooperatively address the wildland/urban interface issue. Attention should be given to:

- Recommendations for including hazards and risks associated with the wildland/urban interface into the fire protection grading system of the Insurance Service Office (ISO).

- Recommendations on a strategy to promote an awareness of wildland/urban interface issues, highlighting insurance industry/policyholder/homeowner success stories.

- Proposals to strengthen Southern Standard Building Code, Uniform Building Code, and National Building Code provisions for structures built in the wildland/urban interface.

—Development of model mutual-aid agreements among Federal fire agencies, the International Association of Fire Chiefs, National Association of State Foresters, and local/regional agencies, addressing local and regional mitigation and suppression requirements in the wildland/urban interface.

—Establishment of a monitoring plan that includes yearly reporting requirements for the Federal agencies and States and establishment of pilot areas as a tool to test and model policy and program changes within the wildland/urban interface.

- The WGA report will independently develop recommendations and an action plan, based on input and consensus, proposing resolution of problems within the wildland/urban interface.

- While the WGA will conduct the assessment in cooperation with the Federal government, WGA will remain an independent contributor to the broader Federal Wildland Fire Policy and Program Review. This will ensure that the various State, local and private interests can fully express their views and not feel compromised through a Federal process.

Appendix III

Federal Wildland Fire Management Policy and Program Review Steering Group

Dr. Charles Philpot, Co-Chair—USDA/U.S. Forest Service

Claudia Schechter, Co-Chair—DOI/Office of the Secretary

Dale Bosworth—USDA/U.S. Forest Service

Dr. Mary Jo Lavin—USDA/U.S. Forest Service

Mike Edrington—USDA/U.S. Forest Service

Dr. Ann Bartuska—USDA/U.S. Forest Service

Les Rosenkrance—DOI/Bureau of Land Management

Rick Gale—DOI/National Park Service

Dr. Robert Streeter—DOI/U.S. Fish & Wildlife Service

Keith Beartusk—DOI/Bureau of Indian Affairs

Stan Coloff—DOI/National Biological Service

Jim Douglas—DOI/Office of the Secretary

Carrye B. Brown—U.S. Fire Administration

James Travers—NOAA/National Weather Service

Richard Krimm—Federal Emergency

Management Administration

Sally Shaver—U.S. Environmental Protection

Agency

[FR Doc. 95-15304 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 747]

Grant of Authority for Subzone Status

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order: Chevron U.S.A. Products Company (Oil Refinery) Pascagoula, Mississippi.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Gulfport/Biloxi Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 92, for authority to establish special-purpose subzone status at the oil refinery complex of Chevron U.S.A. Products Company, in Pascagoula, Mississippi, was filed by the Board on July 21, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 33-93, 58 FR 41710, 8-5-93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 92D) at the Chevron

U.S.A. Products Company refinery complex, in Pascagoula, Mississippi, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.
2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000-# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

- petrochemical feedstocks and refinery by-products (examiners report, Appendix D);
- products for export; and,
- products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 13th day of June 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman Foreign-Trade Zones Board.

ATTEST: John J. Da Ponte, Jr., Executive Secretary.

[FR Doc. 95-15327 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of an antidumping duty order with a May anniversary date. In accordance with the Commerce Regulations, we are initiating this administrative review.

EFFECTIVE DATE: June 22, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-4737.

SUPPLEMENTARY INFORMATION:**Background**

The Department has received a request, in accordance with 19 CFR 353.22(h) (1995), for a new shipper review of an antidumping duty order with a May anniversary date.

Initiation of Review

In accordance with 19 CFR 353.22(h), we are initiating a new shipper review of the antidumping duty order on ball bearings (other than tapered roller bearings) and parts thereof (ball bearings) from Germany. If this review proceeds normally, we will issue the final results of review not later than March 31, 1996.

Antidumping duty proceeding	Period to be reviewed
GERMANY: Ball Bearings A-428-801 Miniatürkugellager GmbH (MKL)	12/01/94-05/31/95

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise in accordance with 19 CFR 353.22(h)(4) (1995).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(h).

Dated: June 14, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.
[FR Doc. 95-15328 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-DS-P

National Oceanic and Atmospheric Administration

[Docket No. 950616159-5159-01; I.D. 061695C]

RIN 0648-ZA16

The Fishing Capacity Reduction Demonstration Program (FCRDP); Funding Availability

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

ACTION: Notice of availability of Federal assistance.

SUMMARY: NMFS issues this notice describing the FCRDP and how NMFS

will review and select applications for funding. The FCRDP is a \$2 million demonstration program to provide grants to the owners of fishing vessels participating in the Northeast multi-species limited access groundfish fishery, who are willing to scrap their vessels and surrender associated Federal fish harvesting permits.

DATES: Applications must be postmarked by September 5, 1995.

ADDRESSES: Applications should be sent to the Northeast Financial Services Branch, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Leo Erwin, NMFS at (508) 281-9203.

SUPPLEMENTARY INFORMATION:**I. Background**

Under the provisions of Public Law 103-211, the Emergency Supplemental Appropriations Act of 1994, \$30 million has been provided to the U.S. Department of Commerce (DOC) for the Northeast Fisheries Assistance Program to address the needs of those directly affected by the decline of traditional fisheries in the Northeast. Of that total amount, \$2 million is being made available for the FCRDP to pilot test an approach for permanently reducing the fishing capacity in the Northeast multispecies groundfish fishery. NMFS is conducting the FCRDP under authority contained in 15 U.S.C. 713c-3(d).

The goal of the FCRDP is to demonstrate that a vessel removal program can be successfully designed and implemented and that such a program can be an effective tool in the conservation and management of U.S. fisheries. The FCRDP is a voluntary program which is intended to target full-time groundfish vessels. Consequently, only permit holders of the following types of permits under the Northeast Multispecies Fishery Management Plan are eligible: Multispecies limited access individual days-at-sea (DAS), fleet das or multispecies limited access gillnet vessel (categories I, II, or VI). A successful applicant will have to scrap the offered vessel and surrender all Federal fishing permits associated with that vessel.

II. How to Apply**A. Eligible Applicants**

Applications for FCRDP grants can only be made by owners of eligible fishing vessels, in accordance with the procedures set forth in this notice. An owner may be an individual who is a citizen or national of the United States,

or a citizen of the Northern Mariana Islands, or a corporation, partnership, association or other entity (non profit or otherwise) if such entity is a citizen within the meaning of section 802 of the Shipping Act, 1916, as amended (46 U.S.C. App. 802). Federal Government agencies or employees, including full-time, part-time, and intermittent personnel (or their spouses or other relatives who are members of their immediate households), are not eligible to submit an application under this solicitation.

For a vessel to be eligible for FCRDP, it must meet the following conditions:

1. Have a valid Multispecies limited access individual DAS, fleet DAS or limited access gillnet fishing permit. Vessel owners will be required to surrender such permits along with ALL other Federal fishing permits issued to that vessel if awarded a grant under the FCRDP.

2. Be active and functioning at the time the vessel owner submits an application, which means that a vessel must be capable of fishing for groundfish in Federal waters under its own power. Successful applicants will be required to show proof that their vessel made at least 2 fishing trips (of any duration for any species) between March 1, 1995, and May 1, 1995.

3. Have derived 65 percent or more of its gross annual revenues from groundfish regulated under the multi-species plan in 3 of the last 4 years. This means that in 1991, 1992, 1993, and 1994 successful applicants must be able to prove that 65 percent or more of the gross revenues (for the vessel involved) in 3 of those years was from the sale of regulated groundfish. Under the Northeast Multispecies Fishery Management Plan, the regulated groundfish species are: Cod, haddock, pollock, yellowtail flounder, winter flounder, gray sole, American plaice, Windowpane flounder, white hake, and redfish.

B. Submission of Applications

Vessel owners must fill out an FCRDP application form in order to apply. Proof of eligibility need not be submitted with this application. However, applicants preliminarily accepted by NMFS for funding will be expected to provide such documentation upon request. Applicants must submit one signed original and two copies of their completed applications. No facsimile applications will be accepted. Proof of receipt may be obtained by sending an application by certified mail, return receipt requested. The anticipated time required to process applications is 90

days from the closing date of this solicitation.

All Federal NE Multi-species limited access individual DAS, fleet DAS and gillnet vessel fishing permit holders will be mailed a copy of the application form along with a copy of this **Federal Register** notice. Applications will also be made available at the NMFS offices identified below:

Fishing Family Assistance Center,
National Marine Fisheries Service,
Federal Building, Room 200, 21
Limerock Street, Rockland, ME 04841;
Tel: 207-594-2267.

Fishing Family Assistance Center,
National Marine Fisheries Service,
Marine Trades Center, Suite 311, 2
Portland Fish Pier, Portland, ME 04101;
Tel: 207-780-3423.

Fishing Family Assistance Center,
National Marine Fisheries Service,
Department of Employment and
Training, 11-15 Parker Street,
Gloucester, MA 01930; Tel: 508-283-
2863.

Fishing Family Assistance Center,
National Marine Fisheries Service, 15-
A Market Place, Chatham, MA 02633;
Tel: 508-945-5492.

Fishing Family Assistance Center,
National Marine Fisheries Service,
Greater New Bedford Reemployment
Career Services, 693 Purchase Street,
New Bedford, MA 02740; Tel: 508-979-
1750.

Fishing Family Assistance Center,
National Marine Fisheries Service, 118
Point Judith Road, Narragansett, RI
02882; Tel: 401-782-8640.

III. Application Review and Scoring

All timely submitted and completed applications will be assigned a score calculated by the following method:

STEP A. Identify Bid

The bid is the dollar amount submitted by the applicant in the application.

STEP B. Calculate Vessel Performance

Vessel performance will be determined by averaging the annual gross revenues from the sale of regulated groundfish species for the highest 3 of the last 4 years (1991, 1992, 1993, 1994). Applicants may use annual regulated groundfish revenues from any 3 years between 1991-94.

STEP C. Determine Vessel Score

Vessel scores will be determined using the following formula:

$$\text{Score} = \frac{\text{Bid}}{\text{Average Annual Revenue}} \times 100$$

(average annual revenues from regulated groundfish species of highest 3 of last 4 years)

Only those years in which an applicant can prove 65 percent or more of a vessel's gross revenue was from the sale of regulated groundfish may be used. Provided below are three examples of how vessels will be scored using the formula described above.

Example 1

The owner of vessel A submits a bid for \$200,000. The average annual revenues for the best 3 out of 4 years (1991, 1992, 1993, 1994) were \$225,000.

Step A. Bid=\$200,000.

Step B. Ave. Rev.=\$200,000+\$225,000+
\$250,000÷3=\$225,000

Step C. Score=\$200,000/\$225,000=.888

The score for vessel A is .888

Example 2

The owner of vessel B submits the same bid as vessel A (\$200,000). However, the average annual revenues for vessel B are \$283,333.

Step A. Bid=\$200,000

Step B. Ave. Rev.=\$200,000+\$300,000+
\$350,000÷3=\$283,333.

Step C. Score=\$200,000/\$283,333=.705

The score for vessel B is .705.

Example 3

The owner of vessel C submits a bid in the amount of \$350,000. The average annual revenues are \$600,000.

Step A. Bid=\$350,000

Step B. Ave. Rev.=\$500,000+\$600,000+
\$700,000÷3=\$600,000

Step C. Score=\$350,000/\$600,000=.583

The score for vessel C is .583.

Even though the bid for vessel C is higher than that of vessels A and B, vessel C scored lower because of its performance. Consequently, vessel C would be selected over vessel A or B and vessel B would be selected before vessel A.

Determining a bid amount is extremely important, since this will be a key factor in the success of an applicant. If the bid is too high in relation to the vessel's groundfish production, the bid may not be competitive. However, an applicant should carefully consider all costs involved with receiving a FCRDP grant. These costs include satisfying vessel liens and vessel scrapping costs. However, Federal assistance funds cannot be used to pay a Federal debt. Applicants may wish to consider selling vessel gear and equipment separately as a way of reducing the amount of a bid because only the vessel hull needs to be scrapped. Vessel owners may retain removable gear and equipment for private disposition. An applicant also needs to consider all tax implications. Applicants are advised to consult with their attorneys and/or accountants.

IV. Ranking and Acceptance of Applications

Applications will be ranked, starting with the lowest score. NMFS will determine which applications will be accepted for further consideration based on the ranking of the applications. NMFS reserves the right to reject any or all applications and may solicit additional applications under a separate **Federal Register** notice if an insufficient number of acceptable applications are submitted that can meet all award requirements described in this notice. If additional applications are solicited, all applications submitted previously and not accepted will be considered rejected.

NMFS will notify accepted applicants in writing and make public the names of accepted applicants and their vessels, not the amount of their bids. However, accepted applicants are not guaranteed funding by simply being accepted. Accepted applicants will be subject to a thorough investigation described in section V. NMFS may initially accept more applications than it can fund. However, NMFS will investigate accepted applications in order of their ranking.

VI. Investigation of Accepted Applications

A representative from the NMFS Financial Services Division will contact accepted applicants with regard to the following:

1. Ensuring that applicants meet all eligibility requirements and can document all claims made in their applications,
2. Determining what debts exist against the vessel offered for scrapping in the application, and
3. Determining how applicants will satisfy all vessel liens before scrapping vessels. Accepted applicants will have to provide written evidence of vessel lienors' willingness to satisfy vessel liens for specific amounts.

Documentation required to support accepted applications includes the following:

1. Federal multi-species limited access individual DAS, fleet DAS or gillnet vessel fishing permit. The applicant may provide a copy of the permit to NMFS, but the actual permit must be surrendered at the time of grant award closing.
2. Proof of Landings. NMFS will require proof that 65 percent or more of a vessel's gross revenues came from the sale of regulated groundfish species in 3 of the last 4 years (1991, 1992, 1993, and 1994). Landing slips or sales tickets may be used to verify claimed revenues.

3. Proof of Gross Revenues for Highest 3 Out of 4 Years. Vessel owners must be able to prove the annual gross revenues from the sale of regulated groundfish species for the highest 3 years used on the application. Documentation to support groundfish income may include, but is not limited to, individual or corporate tax returns, or fish sale receipts accompanied by vessel settlement reports. NMFS may require sworn affidavits from the reporting party regarding the accuracy of the information contained in supporting documentation. Sales of regulated groundfish which can not be substantiated Will Not Be Included in the calculation of gross revenues.

Proprietary information submitted by applicants will only be disclosed to Federal officials who are responsible for the FCRDP or otherwise when required by court order.

VII. Establishment of NMFS Financial Services Division Award Terms

Representatives from the NMFS Financial Services Division will establish the specific terms of each grant award for accepted applications validated during the investigation process. These terms will be binding on the applicants and will control the applicant's post award rights and obligations. Terms of the award will address such matters as how the outstanding liens on the vessels will be satisfied and how the vessel covered in the application will be scrapped. At their own expense, applicants will be required to retain closing attorneys to represent their interests. To the extent necessary, closing attorneys will be required to pay grant funds to vessel lienors in return for lien releases. Should vessel liens exceed the amount of the FCRDP award, attorneys must obtain funds from applicants and exchange them for lien releases.

VIII. Grant Award Closing Procedures

After the Assistant Administrator for Fisheries, NOAA, and the NOAA Grants Management Division have reviewed and approved the terms of accepted and validated applications, then applicants will be notified in writing of the grant award and a closing date will be set. Applicants will be required to have an attorney present at the closing. Seventy-five percent of the grant award will be available at the closing. The remaining 25 percent will be available only when applicants have made arrangements for vessel scrapping and other prescraping dispositions acceptable to NMFS. If these arrangements have been made by the time of closing, 100 percent of the grant funds may be available at that

time. Vessel scrapping must occur promptly.

NMFS reserves the right to terminate grant award negotiations with an applicant, if in the opinion of NMFS there are material adverse changes in an applicant's ability to meet the terms and conditions of a FCRDP grant agreement.

IX. Administrative Requirements

A. Primary Applicant Certification

Applicants whose applications are selected for funding will be required to submit a completed Standard Form 424B, "Assurances—Non-Construction Programs" and Form CD-511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. *Nonprocurement debarment and suspension.* Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-free workplace.* Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-lobbying.* Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. *Anti-lobbying disclosure.* Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

5. *Lower tier certifications.* Applicants shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of

Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to the Department. SF-LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

B. Other Requirements

1. *Federal policies and procedures.* FCRDP grant recipients and subrecipients are subject to all Federal laws and Federal and Department policies, regulations, and procedures applicable to Federal financial assistance awards.

2. *Name check review.* Applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

3. *Financial management certification/preaward accounting survey.* Applicants at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a pre-award accounting survey by the Department prior to execution of the award.

4. *Past performance.* Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

5. *Delinquent Federal debts.* No award of Federal funds shall be made to an applicant or to its subrecipients who have an outstanding delinquent Federal debt or fine until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to the Department are made.

6. *Buy American-made equipment or products.* Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program.

7. *Pre-award activities.* If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of the Department to cover pre-award costs.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

Applications under this program are subject to E.O. 12372, "Intergovernmental Review of Federal Programs."

This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by OMB (OMB control number 0648-0289). Public reporting burden for preparation of the grant application is estimated to be 1 hour per response including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. An additional 15 hour reporting burden is estimated for those applicants who are accepted by NMFS including time for documenting the income claims on their applications, how outstanding liens on their vessels will be satisfied, and how the vessels will be scrapped.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Richard Roberts, NOAA/IRMS, 6010 Executive Blvd., Rm. 722, WSC-5, Rockville, MD 20852; and to the Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503, Attention: NOAA Desk Officer.

Authority: 15 U.S.C. 713c-3(d).

Dated: June 16, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95-15323 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-22-P

[I.D. 061295C]

Marine Mammals

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

ACTION: Receipt of application for a scientific research permit (P771#74).

SUMMARY: Notice is hereby given that Dr. Howard Braham, National Marine Mammal Laboratory, Alaska Fisheries Science Center, 7600 Sand point Way NE., Bldg. 4, BIN C15700, Seattle, WA 98115, has applied in due form for a permit to take California Sea Lions (*Zalophus californianus*), northern fur seals (*Callorhinus ursinus*) and northern elephant seals (*Mirounga angustirostris*) for purposes of scientific research.

DATES: Written comments or requests for a public hearing must be received on or before July 24, 1995..

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289); and

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213 (310/980-4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

FOR FURTHER INFORMATION CONTACT: Kellie Foster (301/713-1401).

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and the fur seal regulations at 50 CFR part 215.

The applicant proposes to conduct four research projects which will focus on several aspects of California sea lion biology: 1) annual at-sea distribution, foraging behavior, and food habits of adult females, mother-pup activity patterns and weaning behavior. Twenty California sea lion female/pup pairs are proposed to be taken yearly by

attachment of instrumentation. Up to 6,000 California sea lions, 350 northern fur seals and 1,650 northern elephant seals are proposed to be taken yearly incidental to activities related to instrumentation and/or scat collection; 2) identification of diseases in the population and the effects of diseases on survival of individuals and weaning parameters of pups. Twenty adult females, four hundred-twenty pups and thirty juvenile California sea lions are proposed to be taken yearly for blood collection, viral and bacterial swabs, measurements and marking by lavage coloring. Ten thousand one hundred California sea lions, three hundred northern fur seals, and one thousand northern elephant seals are proposed to be taken yearly incidental to activities related to the gathering of pups; 3) assessment of vital parameters. Five hundred ninety California sea lion pups are proposed to be taken yearly by hot branding, tagging and measurements. Ninety California sea lion pups are proposed to be taken yearly by measurements and eight thousand eight hundred California sea lions, three hundred northern fur seals and three hundred northern elephant seals are proposed to be harassed yearly incidental to activities related to the gathering of pups for sampling; and 4) assessment of population trends and pup mortality. Twenty-eight thousand California sea lions, one thousand twenty-five northern fur seals and fifteen hundred northern elephant seals are proposed to be harassed yearly incidental to ground surveys to count live and collect and mark dead California sea lion pups. Research will take place on San Miguel Island, the Channel Islands and haul-out sites along the coast of central and northern California. Project duration is 5 years beginning September 1995.

Dated: June 13, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95-15321 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-22-F

[Docket No. 950120020-5160-03; I.D. 040695B]

RIN 0648-AG75

West Coast Salmon Fisheries; Northwest Emergency Assistance Program; Final Amendment

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

ACTION: Program for financial assistance; final amendment.

SUMMARY: The Vessel Permit Buyout Program (Buyout Program) established under the Northwest Emergency Assistance Program (NEAP) has been developed in consultation with NMFS by the Washington Department of Fish and Wildlife (WDFW). For purposes of the Buyout Program only, the definitions of "commercial fishery" and "commercial fisheries income" are modified to clarify the exclusion of Puget Sound gill net permit holders from the Buyout Program, and Puget Sound commercial fishing income from the uninsured loss calculations associated with the Buyout Program. Also, a definition of "coastal waters" is provided in order to clarify the sources of commercial fisheries income that can be used to qualify for the Buyout Program. This amendment is intended to limit the Buyout Program to those permit holders most impacted by the ocean chinook and coho salmon disaster declared by the Secretary of Commerce (Secretary) on May 26, 1994.

EFFECTIVE DATE: June 19, 1995.

ADDRESSES: Requests for further information should be sent to Stephen P. Freese, Northwest Emergency Assistance Program, Trade and Industry Services Division, Northwest Regional Office, National Marine Fisheries Service, Bin C15700, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Bruce Morehead, (301) 713-2358, or Stephen Freese, (206) 526-6113.

SUPPLEMENTARY INFORMATION:

Background

NEAP was described in the following documents: Revisions to program for financial assistance (60 FR 5908, January 31, 1995); program for financial assistance (59 FR 51419, October 11, 1994); notice of proposed program (59 FR 46224, September 7, 1994); and advance notice of proposed rulemaking (59 FR 28838, June 3, 1994). Background information specific to this notice can be found in the proposed amendment published at (60 FR 25891) on May 15, 1995.

The Buyout Program is intended to compensate commercial fishermen for a percentage of their uninsured, and otherwise uncompensated, lost income suffered as a result of a natural resource disaster and to aid the long-term viability of the fishery resource by reducing fishing effort on the stocks. The program description published in the October 11, 1994, **Federal Register** (59 FR 51419) indicated that the Buyout

Program would be applied to the Washington State troll and gillnet fleets and that Washington State may elect to include the charterboat fleets.

In consultation with NMFS, WDFW has designed a Buyout Program consistent with state and Federal management and grant regulations, including a permit offer application that allows assessment of the uninsured, and otherwise uncompensated, loss of the applicant. WDFW, in consultation with NMFS, also has the right to reject any and all bids. The Buyout Program limits eligibility to holders of these Washington State commercial salmon fishery licenses in 1994: Salmon troll/delivery license, Willapa Bay/Columbia River salmon gillnet license, Grays Harbor/Columbia River salmon gillnet license, or salmon charter license. The 1994 license requirement is a prerequisite for the Buyout Program and not part of the definition of loss established in 60 FR 5910 (January 31, 1995). For purposes of determining the uncompensated loss and thus the maximum bid an applicant may make, the Buyout Program allows an applicant to use only income from salmon fisheries in the coastal waters of Washington, Oregon, and California (defined as those waters between the baseline from which the territorial sea of the United States is measured, and the outer boundary of the exclusive economic zone (EEZ), i.e., 200 nautical miles (323 kilometers) seaward of the baseline), and the waters of Grays Harbor, Willapa Bay, and the Columbia River. These definitions focus the Buyout Program principally on those gear groups and fishermen that have been under the most severe restrictions because of the conditions underlying the declaration of the fishery resource disaster.

Comments and Responses

Fifteen sets of comments were received about the definitions published in the proposed amendment (60 FR 25891, May 15, 1995), all of which were supportive of changes and clarifications to the definitions of "coastal fishery" and "commercial fishery income." These comments are grouped into three general comments that address: The new definitions, the implications of any unnecessary delays to the program, and future funding or problems with other facets of the government disaster assistance.

Comment: Many responded that they had understood that Puget Sound gillnetters would be excluded, that the definitions of "commercial fishery" and "commercial fisheries income" will target the coastal and Columbia River

salmon fisheries; or that "coastal" referred to ocean and Columbia River fisheries, not all salt water fisheries. Many respondents also stated that coastal and Columbia River salmon fisheries are the fisheries most impacted by the disaster declared by the Secretary on May 26, 1994. In contrast, Puget Sound gillnetters had a season in 1994.

Response: Under NEAP, WDFW was authorized to establish the Buyout Program. WDFW developed a program that limited eligibility to those salmon fishermen most affected by the conditions that led to the Secretary's fishery disaster declaration for ocean chinook and coho salmon and excluded Puget Sound gillnet fishermen as they were minimally affected by the associated fishery restrictions. As the previous **Federal Register** notices did not explicitly limit eligibility, the May 15, 1995, **Federal Register** notice clarifies NEAP's intent with respect to the exclusion of Puget Sound gillnet permit holders from eligibility for buyouts. This notice confirms this intent by modifying the definitions of "commercial fishery" and "commercial fisheries income" and establishing a definition of "coastal waters".

Comment: To involve more groups would dilute the available funds, change the basic intent of the program, defeat the program's goal, stimulate vessels to incur costly startup procedures to re-enter this year's fishery, void the current lists and bids already developed by WDFW, and possibly cause some existing bids to change. Any additional delay would further frustrate fishermen who are already upset with the time taken to implement this program and with the amount of the available funds.

Response: This final notice will allow WDFW to respond quickly to the 510 bidders waiting notification.

Comment: Future funding should also be used to buyout Oregon licensed gillnetters. For coastwide uniformity, the Oregon proposals for the Data jobs program should be expanded into Washington State. The Small Business Administration (SBA) should be more helpful, especially in providing loans to install freezer equipment for use in alternative fisheries such as albacore tuna.

Response: Should future funds be available and a buyback program supported by the State of Oregon, participation of the Oregon gillnetters will be encouraged but will also depend on the State of Oregon providing the necessary assurances that any Oregon permit reduction will be permanent. In the final selection of Data Jobs proposals, many of the Oregon projects

were expanded into Washington so that uniformity could be achieved. Comments concerning loans have been sent to the SBA.

Final Amendments

For the reasons stated above, the amendments proposed in the May 15, 1995, **Federal Register** notice are adopted as final. The following definitions and modifications are incorporated into the NEAP:

Coastal waters means those waters between the baseline from which the territorial sea of the United States is measured, and the outer boundary of the EEZ (i.e., 200 nautical miles (323 kilometers) seaward of the baseline).

Commercial fishery, for purposes of the Habitat and Data Collection Jobs Programs, is defined as the salmon fishery off the coasts and in the State waters of Washington, Oregon, and California for purposes of either selling the salmon harvested or providing a vessel for hire that carries recreational fishermen to engage in fishing for a fee (e.g., charterboats and headboats). Subsistence fisheries do not fall under this definition. For purposes of the Vessel Permit Buyout Program, commercial fishery is defined as a fishery conducted under a 1994 Washington State troll, salmon delivery, Willapa Bay/Columbia River salmon gillnet, Grays Harbor/Columbia River salmon gill net, or salmon charter license. (Note that a salmon delivery license is only for fishing in the Federal exclusive economic zone and landing the fish in Washington State. Salmon troll licenses are only for fishing within 3 miles (4.8 kilometers) off the coast.)

Commercial fishery income, for purposes of the Habitat and Data Collection Jobs Programs, is income derived from participation in the commercial fishery. For purposes of the Vessel Permit Buyout Program, commercial fishery income is income derived from participation in a commercial salmon fishery in the coastal waters of Washington, Oregon, and California, and the waters of Grays Harbor, Willapa Bay, and the Columbia River.

Classification

This action has been determined to be not significant for the purposes of E.O. 12866.

The application mentioned in this notice is subject to the Paperwork Reduction Act. It has been approved by the Office of Management and Budget under control number 0648-0288.

Authority: 16 U.S.C. 4107(d).

Dated: June 16, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95-15322 Filed 6-19-95; 2:07 pm]

BILLING CODE 3510-22-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

June 16, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 338/339 is being increased by special shift, reducing the limit for Categories 638/639.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 5371, published on January 27, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the

implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 16, 1995.

Commissioner of Customs, Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on June 20, 1995, you are directed to amend the January 24, 1995 directive to adjust the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
338/339	1,000,199 dozen.
638/639	1,129,030 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95-15337 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-DR-F

Request for Public Comments on Bilateral Textile Consultations With Guatemala on Certain Cotton and Man-Made Fiber Textile Products

June 16, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on categories for which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On May 31, 1995, under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Guatemala with respect to cotton and man-made fiber skirts in Categories 342/642, produced or manufactured in Guatemala.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Guatemala, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 342/642, produced or manufactured in Guatemala and exported during the twelve-month period which began on May 31, 1995 and extends through May 30, 1996, at a level of not less than 319,417 dozen.

A statement of serious damage concerning Categories 342/642 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 342/642, or to comment on domestic production or availability of products included in Categories 342/642, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Guatemala.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating

to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 342/642. Should such a solution be reached in consultations with the Government of Guatemala, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage—Guatemala Cotton and Manmade Fiber Skirts Category 342/642

May 1995

Import Situation and Conclusion

U.S. imports of cotton and manmade fiber skirts, Category 342/642, from Guatemala reached 319,417 dozen in the year ending February 1995, 22 percent above the 262,414 dozen imported in same period a year earlier. Imports from Guatemala were 4.0 percent of total U.S. imports of Category 342/642 in the year ending February 1995, and were equivalent to 4.8 percent of U.S. production of Category 342/642 in calendar year 1994.

U.S. imports of cotton and manmade fiber skirts from Guatemala in Category 342/642 during 1994 entered the U.S. at an average landed duty-paid value of \$71.16 per dozen, 53 percent below U.S. producers' average price for cotton and manmade fiber skirts.

The sharp and substantial increase of low valued Category 342/642 imports from Guatemala is causing serious damage to the U.S. domestic industry producing cotton and manmade fiber skirts.

U.S. Production, Import Penetration, and Market Share

U.S. production of cotton and manmade fiber skirts, Category 342/642, declined from 8,117,000 dozen in 1992 to 6,606,000 dozen in 1994, a decline of 19 percent. In contrast imports of Category 342/642 surged from 6,884,000 dozen in 1992 to 7,661,000 dozen in 1994, an 11 percent increase. Category 342/642 imports continue to increase, reaching 7,908,000 dozen in the year ending February 1995.

The ratio of imports to domestic production increased from 85 percent in 1992 to 116 percent in 1994. The share of this market held by domestic manufacturers fell from 54 percent in

1992 to 46 percent in 1994, a decline of eight percentage points.

[FR Doc. 95-15338 Filed 6-21-95; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Applicable Form: Chemical Weapons Exposure; DD Form 2733.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 225.

Needs and Uses: This information collection provides data needed to identify records which may support veterans' claims of participation in chemical weapons tests or exposure prior to 1968.

Respondents are veterans, families of veterans, and former civilian employees of the U.S. Government who allege involvement in testing or exposure. The data will be used to obtain information for possible submission to the Department of Veterans Affairs to substantiate compensation claims, and to provide treatment; to locate individuals eligible for receipt of DoD commendation; and in some cases to locate names of additional individuals for possible compensation, commendation, and treatment.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C.

Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should

be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: June 5, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95-15242 Filed 6-21-95; 8:45 am]

BILLING CODE 5000-04-M

Department of the Navy

Notice of Postponement: Naval Reserve Center, Coconut Grove, Miami, FL

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides for the indefinite postponement of the submittal of expressions of interest and outreach efforts for the Naval Reserve Center, Coconut Grove, Miami, FL.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Real Estate Operations Division, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300, telephone (703) 325-0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419-9010, telephone (803) 743-0494.

NOTICE OF POSTPONEMENT: In 1988, the Naval Reserve Center, Coconut Grove, Miami, FL, was designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act, Public Law 100-526, as amended. On or about May 1, 1995, the City of Miami issued a public notice stating, in part, that interested parties should submit Notices of Interest concerning the surplus property at the Naval Reserve Center before June 12, 1995.

Pursuant to Section 2905(b)(7)(N) of Public Law 101-510, as amended by Public Law 103-421, the Secretary, in consultation with the City of Miami, has determined that it would be in the interest of communities affected by the closure of the Naval Reserve Center, Coconut Grove, Miami, FL, to postpone indefinitely the deadlines, such as the submittal of Notices of Interest and outreach efforts. The Department of the Navy will publish a subsequent Notice in the **Federal Register** when the Secretary determines that the process should be resumed.

Dated: June 9, 1995.

M.D. Schetzle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95-15273 Filed 6-21-95; 8:45 am]

BILLING CODE 3810-FF-P

Department of the Air Force

Notice of Availability for Environmental Assessment and Finding of No Significant Impact for the Disposal and Reuse of Newark AFB, OH

The United States Air Force is issuing this notice to advise the public that the Air Force has prepared an environmental assessment (EA) to assess the potential environmental consequences of the disposal and reuse of Newark AFB identified for closure under the Base Closure and Realignment Act of 1990 as amended. As a result of the analysis of impacts in the EA, it was concluded that the proposed disposal and reuse of Newark AFB would not have a significant effect on human health or the natural environment and, therefore, an environmental impact statement will not be prepared. Based on the analysis in the EA, a Finding of No Significant Impact (FONSI) has been issued. Please direct requests for further information concerning the Newark AFB disposal and reuse EA and FONSI to: Col. Thomas Gross, USAF, AFCEE/EC, 8106 Chennault Road, Brooks AFB TX 78235-5318, (201) 536-3907.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95-15283 Filed 6-21-95; 8:45 am]

BILLING CODE 3910-01-P

Office of the Secretary

Privacy Act of 1974; Notice to Amend a Record System.

AGENCY: Office of the Secretary, DOD.

ACTION: Notice to amend a record system.

SUMMARY: The Office of the Secretary of Defense proposes to amend a system of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on July 24, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Chief, Records Management and Privacy Act Branch, Washington Headquarter Services, Correspondence and Directives, Directives and Records

Division, 1155 Defense Pentagon, Washington, DC 20301091155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695090970 or DSN 225090970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: June 12, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P28

SYSTEM NAME:

OSD Clearance File (*February 22, 1993, 58 FR 10274*).

CHANGES:

SYSTEM NAME:

Delete entry and replace with 'Personnel Security Operations File'.

SYSTEM LOCATION:

Delete entry and replace with 'Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Personnel Security Operations Division, 1155 Defense Pentagon, Room 3B347, Washington, DC 20301091155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete and replace entry with, 'Civilian employees of, and military members assigned to, the Office of the Secretary of Defense, its components and supported organizations including the United States Court of Appeals for the Armed Forces, the Advanced Research Projects Agency, the Ballistic Missile Defense Organization, the American Forces Information Service, the Defense Legal Services Agency, the Defense Security Assistance Agency, the Defense Technology Security Administration, the Defense Medical Program Activity, the Defense POW/MIA Office, and certain personnel selected for assignment to the United States Mission to NATO.

Experts and consultants serving with or without compensation.
 Certain employees of the Congressional Budget Office and the U.S. Capitol Police.

Staff of Congressional committees and personnel office staff who require access to classified DoD information or material.

Employees of other agencies detailed to the Office of the Secretary of Defense. Members and staff of DoD commissions and certain Presidential commissions.

Very important people selected to attend orientation conferences.

Defense contractors requiring access to special programs.

Unsalariated students working as interns in supported organizations.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'National Agency Checks conducted by the Directorate for Personnel and Security, Washington Headquarters Services; the Individual's Certificate of Security Clearance; security briefing and debriefing statements; security violations and other files pertinent to the security clearance or access status of an individual'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301 and Executive Order 12356, Executive Order 10450, Executive Order 9397.'

PURPOSE(S):

Delete entry and replace with 'To be used by officials of the Personnel Security Operations Division, Directorate for Personnel and Security, Washington Headquarters Services, to maintain security clearance and authorized access information.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Active personnel security files maintained alphabetically by last name of subject, or by Social Security Number. Inactive personnel security files serially numbered and indexed alphabetically'

SAFEGUARDS:

Delete entry and replace with 'Files are maintained under the direct control of office personnel during duty hours. Office is locked and alarmed during non-duty hours. Computer media is stored in controlled areas. Computer terminal access is controlled by user passwords that are periodically changed.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Personnel security clearance files are

maintained until notification of death, separation, or transfer of the individual, placed in inactive status, and destroyed after 3 years.'

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Applications and related forms from the individual; background investigations and summaries of information from background investigations; employment suitability related information; and forms and correspondence relating to the security clearance and access of the individual.'

* * * * *

DWHS P28

SYSTEM NAME:

Personnel Security Operations File.

SYSTEM LOCATION:

Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Personnel Security Operations Division, 1155 Defense Pentagon, Room 3B347, Washington, DC 20301091155

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of, and military members assigned to, the Office of the Secretary of Defense, its components and supported organizations including the United States Court of Appeals for the Armed Forces, the Advanced Research Projects Agency, the Ballistic Missile Defense Organization, the American Forces Information Service, the Defense Legal Services Agency, the Defense Security Assistance Agency, the Defense Technology Security Administration, the Defense Medical Program Activity, the Defense POW/MIA Office, and certain personnel selected for assignment to the United States Mission to NATO.

Experts and consultants serving with or without compensation.

Certain employees of the Congressional Budget Office and the U.S. Capitol Police.

Staff of Congressional committees and personnel office staff who require access to classified DoD information or material.

Employees of other agencies detailed to the Office of the Secretary of Defense.

Members and staff of DoD commissions and certain Presidential commissions.

Very important people selected to attend orientation conferences.

Defense contractors requiring access to special programs.

Unsalariated students working as interns in supported organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

National Agency Checks conducted by the Directorate for Personnel and Security, Washington Headquarters Services; the Individual's Certificate of Security Clearance; security briefing and debriefing statements; security violations and other files pertinent to the security clearance or access status of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order 12356, Executive Order 10450, Executive Order 9397.

PURPOSE(S):

To be used by officials of the Personnel Security Operations Division, Directorate for Personnel and Security, Washington Headquarters Services, to maintain security clearance and authorized access information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files are maintained in a secured area, and computer files are stored on magnetic tape and disk.

RETRIEVABILITY:

Active personnel security files maintained alphabetically by last name of subject, or by Social Security Number. Inactive personnel security files serially numbered and indexed alphabetically.

SAFEGUARDS:

Files are maintained under the direct control of office personnel during duty hours. Office is locked and alarmed during non-duty hours. Computer media is stored in controlled areas. Computer terminal access is controlled by user passwords that are periodically changed.

RETENTION AND DISPOSAL:

Personnel security clearance files are maintained until notification of death, separation, or transfer of the individual, placed in inactive status, and destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301091155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301091155

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the Director for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, 1155 Defense Pentagon, Washington, DC 20301091155

CONTESTING RECORD PROCEDURES:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Applications and related forms from the individual; background investigations and summaries of information from background investigations; employment suitability related information; and forms and correspondence relating to the security clearance and access of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt from certain provisions of 5 U.S.C. 552a(k)(5), as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 95-15243 Filed 6-21-95; 8:45 am]

BILLING CODE 5000-04-F

Performance Review Board Membership

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Board for the Defense Finance and Accounting Service.

EFFECTIVE DATE: July 15, 1995.

FOR FURTHER INFORMATION CONTACT: Beverley McDaris, Defense Finance and Accounting Service, DFAS-HQ/H, 1931 Jefferson Davis Highway, Arlington, VA 22240-5291.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

Gary Amlin, Principal Deputy Director, Defense Finance and Accounting Service—Headquarters.

John Barber, Director, External Affairs and Management Support, Defense Finance and Accounting Service—Headquarters.

Gregory Bitz, Director—Indianapolis Center, Defense Finance and Accounting Service.

Robert Burke, Deputy Director for Information Management, Defense Finance and Accounting Service.

Bruce Carnes, Deputy Director for Resource Management, Defense Finance and Accounting Service—Headquarters.

Charles Coffee, Director—Columbus Center, Defense Finance and Accounting Service.

Jerome Coleman, Principal Deputy Director—Denver Center, Defense Finance and Accounting Service.

Michael Dugan, Assistant Deputy Director for Resource Management, Defense Finance and Accounting Service—Headquarters.

Robert Goetz, Principal Deputy Director—Indianapolis Center, Defense Finance and Accounting Service.

Ida Faye Groves, Principal Deputy Director—Columbus Center, Defense Finance and Accounting Service.

Edward Harris, Deputy Director for Business Funds, Defense Finance and Accounting Service—Headquarters.

Phyllis Hudson, Director—Cleveland Center, Defense Finance and Accounting Service.

Leon Krushinski, Principal Deputy Director—Cleveland Center, Defense Finance and Accounting Service.

Thomas McCarty, Deputy Director for General Accounting, Defense Finance and Accounting Service—Headquarters.

Robert McNamara, Assistant Deputy Director for Plans and Management, Defense Finance and Accounting Service—Headquarters.

John Mester, General Counsel, Defense Finance and Accounting Service—Headquarters.

John Nabil, Director—Denver Center, Defense Finance and Accounting Service.

Steve Turner, Director—Kansas City Center, Defense Finance and Accounting Service.

Teresa Walker, Deputy Director for Plans and Management, Defense Finance and Accounting Service—Headquarters.

Michael Wilson, Deputy Director for Customer Service and Performance Assessment, Defense Finance and Accounting Service—Headquarters.

Dated: June 15, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95-15244 Filed 6-21-95; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF EDUCATION**Office of Educational Research and Improvement (OERI)—Regional Educational Laboratory Program; Availability of Request**

AGENCY: Department of Education.

ACTION: Notice of availability of request for proposals.

On May 18, 1995, the Secretary published a notice in the Commerce Business Daily (page 2) announcing intent to issue a request for proposals (RFP) for the Regional Educational Laboratory Program. The Department of Education proposes to operate ten Regional Educational Laboratories to serve ten geographic regions. The closing date for responding to the RFP is August 8, 1995.

The purpose of this notice is to inform interested parties that copies of the RFP may be obtained—

- By telephone at (202) 708-6498;
- By mail or telegram to Department of Education, 7th and D Streets, S.W., Room 3633, ROB 3, Washington, D.C. 20202-4725; or
- In person at the mail address.

FOR FURTHER INFORMATION CONTACT: LaVerne Reddick (202) 708-8222 or Latonya Simpson (202) 708-6498.

Dated: June 16, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95-15257 Filed 6-21-95; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No: 84.272]

National Early Intervention Scholarship and Partnership (NEISP) Program; Notice Inviting Applications for New Awards for Fiscal Year 1995

Purpose of Program: Under the NEISP Program, the Secretary provides grants to States to—

(a) Encourage the States to provide or maintain a guaranteed amount of financial assistance necessary to permit eligible low-income students who obtain high school diplomas or the equivalent to attend an institution of higher education; and

(b) Provide financial incentives to enable States, in cooperation with local educational agencies, institutions of higher education, community organizations, and businesses, to provide—

(1) Additional counseling, mentoring, academic support, outreach, and supportive services to preschool, elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

(2) Information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

Eligible Applicants: The Secretary is authorized to accept applications from the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

Deadline for Transmittal of Applications: July 24, 1995.

Deadline for Intergovernmental Review: September 22, 1995.

Available Funds: The Administration's budget request for fiscal year 1995 did not include funds for this program. However, the Congress has appropriated \$3,108,000 in fiscal year 1995 for the early intervention and postsecondary educational scholarship components of the NEISP Program. Please note that for fiscal year 1995 only approximately \$1,000,000 in Federal funds are available to fund new State applicants to be allocated to States on a competitive basis. This is due to the grant continuation requirements for 1994-95 NEISP Program grantees.

Estimated Range of Awards: \$150,000 to \$375,000.

Estimated Average Size of Awards: \$275,000.

Estimated Number of Awards: 3-5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Period: 12 months.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 75, 76, 77, 79, 80, 82, 85 and 86; (b) the regulations in 34 CFR part 600; (c) the regulations in 34 CFR part 668; and (d) the regulations for this program in 34 CFR part 693.

Supplementary Information: The Secretary strongly requests the applicant to limit the application narrative to no more than 50 double-spaced, typed pages (on one side only) although the Secretary will consider applications of greater length. The Department anticipates that successful applications under this program generally will meet this page limit.

Priority: None.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the selection criteria in 34 CFR 693.22 of the program regulations.

For Further Information Contact: Daniel Sullivan, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3045, ROB-3, Washington, D.C. 20202-5447. Telephone: (202) 708-4607. 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 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. 1070a-21 to 1070a-27.

Dated: June 16, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95-15258 Filed 6-21-95; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Notice of Intent to Prepare an Environmental Impact Statement and Notice of Floodplain and Wetlands Involvement for the Wildlife Mitigation Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Notice of Floodplain and Wetlands Involvement.

SUMMARY: Today's notice announces BPA's intention to prepare an EIS on proposed establishment of principles for implementing a program to mitigate the loss of wildlife habitat caused by the development and operation of Columbia River Basin (Basin) hydroelectric projects (as allocated to the purpose of power production). This action involves land resources planning probably affecting many floodplains and wetlands throughout the Basin. In accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act, 16 U.S.C. 839), specific wildlife mitigation activities that BPA would implement under the program are developed through Pacific Northwest Power Planning Council (Council) procedures and proposed in the Council's Fish and Wildlife Program. Although BPA decisions on these specific actions are independent of one another, preparation of this EIS recognizes their similarity of impacts, methods of implementation, and subject matter. We stress that the EIS will focus on wildlife mitigation, *not* on anadromous or resident fish mitigation. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), the EIS will integrate a floodplain and wetlands assessment.

BPA invites public comment on the range of actions, alternatives, and impacts to address in the Wildlife Mitigation Program EIS.

DATES: A public scoping meeting is schedule for July 14, 1995, 2 p.m. to 4 p.m., at the Forum Building, room 190, 525 NE Oregon Street, Portland, Oregon. BPA is willing to hold additional scoping meetings depending on public interest and will contact Tribes, agencies, and groups known to be interested in the wildlife program. Written comments are due to the address below no later than July 28, 1995.

ADDRESSES: Please send written comments and requests to be placed on the project mailing list to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, PO Box 12999, Portland, Oregon 97212. The phone number of the Public Involvement and Information Office is 503-230-3478 in Portland; toll-free 1-800-622-4519 outside of Portland.

FOR FURTHER INFORMATION, CONTACT:

Thomas C. McKinney, Bonneville Power Administration, PO Box 3621 (ECN), Portland, Oregon 97208-3621, phone number 503-230-4749, fax number 503-230-5699.

SUPPLEMENTARY INFORMATION:

Development and operation of the hydropower system in the Columbia River Basin has had far-reaching effects on many species of wildlife. Some floodplain and riparian habitats important to wildlife were inundated when reservoirs filled. BPA needs mitigation for the loss of wildlife habitat caused by the federal portion of this development. Specific mitigation actions that BPA may support to satisfy this need are initially developed in a public process managed by the Northwest Power Planning Council. Future mitigation actions with potential environmental effects are expected to include fee-title land acquisition and management, property lease and management, conservation easement acquisition and management, water rights acquisition and management, habitat restorations and enhancements, installation of watering devices, riparian fencing, and similar wildlife conservation actions. Potential project implementors and managers include Indian Tribes, states, private conservation groups, and other federal agencies. The area of potential impact is most of the Columbia River Basin, including land in Idaho, Montana, Nevada, Oregon, and Washington.

Proposed Action

The proposed action to be considered in this BPA Wildlife Mitigation Program EIS is the establishment of principles to guide program implementation. A primary purpose of these program implementation principles will be cost-effective achievement of wildlife mitigation goals. General issues the EIS may address include wildlife management, vegetation management, water management, ecosystem management, fire management, multiple use and public access management, cultural resource management, Indian treaty rights, and local economic effects. Identification of additional issues may result from the public scoping process, and scoping may also eliminate some issues from in-depth analysis. The proposed program principles may establish criteria for implementing specific mitigation actions without further review, or with limited site-specific analysis tiered to the Program EIS. Undertaking preparation of the EIS necessarily assumes future BPA funding of wildlife mitigation, but is not a commitment to program funding. If

funds are available, the EIS will help to achieve maximum benefits for wildlife.

Process to Date

BPA began mitigating for wildlife losses under the Northwest Power Act following issuance of the Council's initial Fish and Wildlife Program in 1982. To date, BPA has performed environmental review of requests for wildlife mitigation funding concurrent with site-specific proposals for action. Issues common to many of these site-specific reviews have helped to tentatively define the scope of the Wildlife Mitigation Program EIS. To the extent practical, the Council and BPA intend to integrate the Wildlife Mitigation Program EIS process with this year's process to amend the wildlife section of the Council's Fish and Wildlife Program.

Information developed from other environmental reviews in the Pacific Northwest, particularly the System Operation Review EIS jointly undertaken by BPA, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation, may be included in the Wildlife Mitigation Program EIS as appropriate.

Possible Alternatives

Alternatives to be considered in the BPA Wildlife Mitigation Program EIS would include alternative implementation principles for each management issue addressed. The EIS will also consider a No Action alternative, *i.e.*, program implementation without defined program-wide implementation principles.

Identification of Environmental Issues

The environmental issues associated with wildlife mitigation activities include changes in land use, vegetation patterns, wildlife populations, recreational opportunities, and water use and quality. Additional environmental issues concern protection of historic and cultural resources, introduction of herbicides into the environment, and smoke from vegetation burning.

Issued in Portland, Oregon, on June 12, 1995.

Randall W. Hardy,

Administrator.

[FR Doc. 95-15324 Filed 6-21-95; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Central Vermont Public Service Corporation; Notice of Intent To File an Application for a New License

[Project No. 2737 Vermont]

June 16, 1995.

Take notice that the Central Vermont Public Service Corporation, the existing licensee for the Lower Middlebury Hydroelectric Project No. 2737, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2737 was issued effective April 1, 1962, and expires July 1, 2000.

The project is located on the Otter Creek in Addison County, Vermont. The principal works of the Lower Middlebury Project include an 80-foot-long, 15-foot-high concrete gravity West Dam with two stop log sections, and a 270-foot-long, 10-foot-high buttressed concrete gravity East Dam with a headrace structure and eight sliding gates; a reservoir with an area of about 16 acres at 314.48 feet U.S.G.S.; a power intake canal about 400 feet long and 40 feet wide; a concrete and brick powerhouse containing three 750-Kw generators; transformers and transmission line; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is available from the licensee at 77 Grove Street, Rutland, Vermont 05701.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license application must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 1, 1998.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15266 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-341-000]

Colorado Interstate Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

June 16, 1995.

Take notice that on June 13, 1995, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 271 to be effective August 1, 1995.

CIG states the purpose of this filing is to:

(1) reduce to one day from the current ten days the period during which CIG must notify an existing Shipper of any offers deemed superior to existing Shipper's offered terms of extension of capacity covered by an expiring contract; and

(2) reduce to one day from the current ten days the period during which an existing off-system Shipper can decide whether to exercise the right-of-first-refusal to match the highest bid.

CIG states that copies of this filing were served upon all CIG jurisdictional transportation customers and State Commissions where CIG provides transportation service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15271 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-553-000]

**Florida Gas Transmission Company;
Notice of Request Under Blanket
Authorization**

June 16, 1995.

Take notice that on June 9, 1995, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP95-553-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point in Dade County, Florida under FGT's blanket certificate issued in Docket No. CP82-553-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes that the new delivery point will be constructed near mile post 10.0 on its existing 4-inch Homestead Lateral (Township 56 South, Range 39 east, Section 23) and will include a new 2-inch tap, pressure regulation, a rotary meter, approximately 50 feet of 2-inch line, and related appurtenant facilities. FGT states that the City Gas Company of Florida (CGC), a Division of NUI Corporation, requested this delivery point. FGT proposes to make gas deliveries to CGC of approximately 75 MMBtu per day and 27,375 MMBtu annually on an interruptible basis. Construction will be on the property site of CGC's new customer. FGT will be reimbursed by CGC for the estimated cost of \$83,000, inclusive of tax gross-up. The end use is industrial. FGT states it has sufficient capacity to continue all services without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15263 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 50-160]

**Georgia Institute of Technology,
(Georgia Tech Research Reactor);
Order Modifying Facility Operating
License No. R-97**

I

The Georgia Institute of Technology (Georgia Tech or the licensee) is the holder of Facility Operating License No. R-97 (the license) issued on December 29, 1964, by the U.S. Atomic Energy Commission. The license, as amended on June 6, 1974 (Amendment No. 1) and by subsequent amendments, authorizes operation of the Georgia Tech Research

Reactor (GTRR or the facility) at steady-state power levels up to 5 megawatts thermal (MWt). The research reactor is located in the Neely Nuclear Research Center, in the north central portion of the Georgia Tech campus in Atlanta, Georgia.

II

On February 25, 1986, the U.S. Nuclear Regulatory Commission (NRC or the Commission) promulgated a final rule in § 50.64 of Title 10 of the Code of Federal Regulations (10 CFR 50.64) limiting the use of high-enriched uranium (HEU) fuel in domestic research and test reactors (non-power reactors) (see 51 FR 6514). The rule, which became effective on March 27, 1986, requires that each licensee of a non-power reactor (NPR) replace its HEU fuel with low-enriched uranium (LEU) fuel acceptable to the Commission. This replacement is contingent upon Federal Government funding for conversion-related costs, and is required unless the Commission has determined that the reactor has a unique purpose as defined in 10 CFR 50.2. The rule is intended to promote the common defense and security by reducing the risk of theft or diversion of HEU fuel used in non-power reactors and the consequences to public health, safety and the environment from such potential theft or diversion.

Sections 50.64(b)(2)(i) and (ii) require that a licensee of an NPR (1) not initiate acquisition of additional HEU fuel, if LEU fuel that is acceptable to the Commission for that reactor is available when the licensee proposes that acquisition, and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

Section 50.64(c)(2)(i) requires, among other things, that each licensee of an NPR authorized to possess and to use HEU fuel, develop and submit to the Director of the Office of Nuclear Reactor Regulation (Director, NRR) by March 27, 1987, and at 12-month intervals thereafter, a written proposal for conforming to the requirements of the rule.

Section 50.64(c)(2)(i) also requires the licensee to have the following in its proposal: (1) A certification that Federal Government funding for conversion is available through the U.S. Department of Energy (DOE) or another appropriate Federal agency and (2) a schedule for conversion, based upon the availability of replacement fuel acceptable to the Commission for that reactor, and upon consideration of other factors such as

the availability of shipping casks, implementation of arrangements for available financial support, and reactor usage.

Section 50.64(c)(2)(iii) requires the licensee to include in its proposal, to the extent required to effect conversion, all necessary changes to the license, facility, or procedures. This paragraph also requires the licensee to submit supporting safety analyses so as to comply with the schedule established for conversion.

Section 50.64(c)(2)(iii) also requires the Director, NRR, to review the licensee proposal, to confirm the status of Federal Government funding for conversion, and to determine a final schedule if the licensee has submitted a schedule for conversion.

Section 50.64(c)(3) requires the Director, NRR, to review the supporting safety analyses and to issue an appropriate Enforcement Order directing both the conversion and, to the extent consistent with protection of the public health and safety, any necessary changes to the license, facility, or procedures. In the **Federal Register** notice of the final rule, the Commission indicated that in most cases, if not all, an Enforcement Order would be issued to modify the license.

Section 2.202, the current authority for issuing Orders of all types, including Orders to modify licenses, provides, among other things, that the Commission may modify a license by serving an Order on the licensee. The licensee or other person adversely affected by the Order may demand a hearing with respect to any part or all of the Order within 20 days from the date of the notice or such other period as the notice may provide.

III

On January 21, 1993, as supplemented on March 2, March 21, and July 15, 1994, the licensee submitted a proposal to convert from the use of HEU to the use of LEU. This proposal contained descriptions of the modifications, supporting safety analyses, and plans for conversion. The conversion consists of replacing HEU with LEU fuel elements. The LEU fuel elements contain material test reactor (MTR)-type fuel plates, with the fuel consisting of uranium silicide dispersed in an aluminum matrix and completely clad in aluminum alloy. These plates contain an enrichment of less than 20 percent uranium-235.

The NRC staff has reviewed the licensee's proposal for conversion to LEU fuel and the requirements of 10 CFR 50.64 and has determined that the public health and safety and the

common defense and security support a conversion of the facility from the use of HEU to LEU fuel in accordance with the attachment to this Order and the schedule requirements that follow. The attachment to this Order specifies the changes to the license and Technical Specifications that are needed to implement the requirements of this Order.

IV

Accordingly, pursuant to Sections 51, 53, 57, 101, 104, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and Commission regulations in 10 CFR 2.202 and 10 CFR 50.64, it is hereby ordered that:

Facility Operating License No. R-97 be modified as stated in the "ATTACHMENT TO ORDER MODIFYING FACILITY OPERATING LICENSE NO. R-97" by adding License Conditions 2.B(4) and 2.C(4) on the thirtieth day after the date of publication of this Order in the **Federal Register** and by revising the License Conditions 2.B(2) and 2.C(2) and Technical Specifications on the day the licensee receives an adequate number and type of LEU fuel elements that are necessary to operate the facility as specified in the licensee's proposal as supplemented.

V

In accordance with 10 CFR 2.202, the licensee or any other person adversely affected by this Order may submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the licensee if the hearing request is by a person other than the licensee. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the person's 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 the licensee or 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 that hearing is whether this Order should be sustained.

In the absence of any request for a hearing, the provisions specified in this Order shall be effective and final 20 days from the date of this Order without further order or proceedings.

For the Nuclear Regulatory Commission.

Dated at Rockville, Md., this 16th day of June 1995.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

Attachment To Order—Modifying Facility Operating License No. R-97

A. License Conditions Revised and Added by This Order

2.B(2) Pursuant to the Act and 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," to possess, but not use, up to 4.9 kilograms of contained uranium-235 at enrichments greater than 20 percent in the form of MTR-type reactor fuel until the existing inventory of this fuel is removed from the facility.

2.B(4) Pursuant to the Act and 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," to receive, possess, and use at any one time in connection with the operation of the reactor up to 8.85 kilograms of contained uranium-235 at enrichments less than 20 percent in the form of MTR-type reactor fuel.

2.C(2) Technical Specifications

The Technical Specifications contained in Appendix A, as revised through the Order Modifying Facility Operating License No. R-97, dated June 16, 1995, and Amendment No. 10 are hereby incorporated in the license. The licensee shall operate the facility in accordance with the Technical Specifications.

2.C(4) Startup Test Report

The licensee shall submit a startup test report within six months after achieving initial criticality with low-enriched uranium reactor fuel in accordance with the Order Modifying Facility Operating License No. R-97, dated June 16, 1995. This report shall be sent as specified in 10 CFR 50.4, "Written Communications."

B. The Technical Specifications will be revised by this Order in accordance with the Enclosure to the Order Modifying Facility Operating License No. R-97, dated June 16, 1995, Docket

No. 50-160, and as discussed in the safety evaluation for this Order.

[FR Doc. 95-15293 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95-173-003]

Koch Gateway Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

June 16, 1995.

Take notice that on June 12, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets effective April 1, 1995:

Third Revised Sheet No. 1

Koch Gateway states that the above referenced tariff sheet reflects Koch Gateway's compliance with the May 31, 1995, Office of the Pipeline Regulation (OPR) Order in this proceeding. Koch Gateway states that the tariff sheet has been filed to make a pagination change. Additionally, pursuant to the OPR order, Koch Gateway submits an explanation for the tariff language contained in Tariff Sheet No. 403 and 502 of its tariff.

Koch Gateway also states that the tariff sheet is being mailed to all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15269 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT95-10-002]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

June 16, 1995.

Take notice that on June 1, 1995, pursuant to Section 154.62 of the Commission's Regulations and in compliance with the Commission's March 17, 1995 order in Docket No. GT95-10-000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing executed Section 7(c) service contract between Texas Eastern, as Pipeline, and Public Service Electric and Gas Company under its firm Rate Schedule FTS-7, Contract Number 331007. Texas Eastern states that on April 13, 1995, it submitted several executed Section 7(c) service contracts to the Commission in Docket No. GT95-10-001, but inadvertently omitted this contract.

Texas Eastern requests that the Commission waive all necessary rules and regulations to permit the contract to become effective on the first day of the primary terms as stated in the contract.

Texas Eastern states that a copy of the letter of transmittal and its attached contract is being sent to Public Service Electric and Gas Company.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15264 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-106-010]

Texas Gas Transmission Corporation; Notice of Filing of Refund Report

June 16, 1995.

Take notice that on June 12, 1995, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a refund report detailing a May 31, 1995, Transportation Cost Adjustment (TCA) Tracker refund of \$13,252,957.15.

Texas Gas states that the refund reflects the net credit balances in its TCA deferral accounts at March 31, 1995 when its TCA tracker was terminated.

Texas Gas states that copies of the filing have been served upon Texas Gas's customers receiving refunds and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15268 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-342-000]

Viking Gas Transmission Co.; Notice of Filing

June 16, 1995.

Take notice that on June 14, 1995, Viking Gas Transmission Company (Viking), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet, proposed to be effective July 1, 1995:

Third Revised Sheet No. 72

Viking states that the purpose of the filing is to conform its tariff to the requirements of Order No. 577-A. In particular, Viking proposes to modify the capacity release provisions of its tariff by changing from one calendar month to 31 days the period during which capacity can be released at less than the maximum rate without prior posting or bidding.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on

or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15272 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-244-001]

Williams Natural Gas Co., Notice of Proposed Changes in FERC Gas Tariff

June 16, 1995.

Take notice that on June 14, 1995, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Second Revised Sheet No. 240. The proposed effective date of this tariff sheet is May 4, 1995.

WNG states that the purpose for the instant filing is to comply with the Commission's Order No. 577-A issued May 31, 1995. Substitute Second Revised Sheet No. 240 includes a revision to Article 11 of WNG's FERC Gas Tariff to provide that releases for a period of 31 days or less will be considered short term releases, and releases for more than 31 days are long term releases.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 23, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15270 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EG95-55-000, et al.]

ABB Barranquilla Inc., et al.; Electric Rate and Corporate Regulation Filings

June 15, 1995.

Take notice that the following filings have been made with the Commission:

1. ABB Barranquilla Inc.

[Docket No. EG95-55-000]

On June 2, 1995, ABB Barranquilla Inc. ("ABB BAQ") filed with the Federal Energy Regulatory Commission ("Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. ABB BAQ states that its sole business purpose is to acquire and own a 25.74 percent interest in Termobarranquilla S.A., Empresa de Servicios Publicos ("TEBSA"), which will own and operate the Termobarranquilla generating facility ("Facility") near Barranquilla, Colombia.

The Commission has previously determined that TEBSA is an exempt wholesale generator ("EWG") and, therefore, that the Facility is an "eligible facility" under PUHCA.

Termobarranquilla S.A., Empresa de Servicios Publicos, 69 FERC ¶ 61,295 (1994). ABB BAQ states that ABB BAQ's acquisition of an ownership interest in TEBSA will not affect that determination. ABB BAQ further states that ABB BAQ will be engaged indirectly (through TEBSA) and exclusively in the business of owning and operating an eligible facility and selling electric energy at wholesale. ABB BAQ concludes therefore that ABB BAQ qualifies as an EWG.

Comment date: July 5, 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. Connecticut Light and Power Company

[Docket No. ER95-514-000]

Take notice that Northeast Utilities Service Company (NUSCO), on May 30, 1995, tendered an amendment for filing to the Fourth Amendment to Capacity, Transmission and Energy Service Agreement between Connecticut Light and Power Company (CL&P) and Green Mountain Power Corporation (GMP) (CL&P Rate Schedule No. 519).

NUSCO states that a copy of this filing has been mailed to GMP.

NUSCO requests that the Service Agreement become effective on January 31, 1995.

Comment date: June 29, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER95-727-000]

Take notice that on June 2, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an amended filing in the above Docket.

Copies of this filing were supplied to AES Power Inc., Engelhard Power Marketing, Inc., InterCoast Energy Marketing Company, Gulfstream Energy, LLC, National Electric Associates (L.P.), Power Exchange Corporation, Coastal Electric Services Company, Colorado Springs Utilities, Energy Resource Marketing, Lincoln Electric System, Nebraska Public Power District, Grant County PUD No. 2, Texas-New Mexico Power Company, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: June 29, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Maine Public Service Company

[Docket No. ER95-954-000]

Take notice that on June 5, 1995, Central Maine Power Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: June 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Montaup Electric Company

[Docket No. ER95-1165-000]

Take notice that on June 6, 1995, Montaup Electric Company (Montaup), filed executed service agreements for the sale of system capacity and associated energy to the following companies (Buyers):

1. Maine Public Service Company (MPS);
2. Enron Power Marketing, Inc. (ENRON);
3. InterCoast Power Marketing Company (IPMC);
4. Taunton Municipal Lighting Plant (TMLP);
5. Long Island Lighting Company (LILCO);
6. Connecticut Municipal Electric Energy Cooperative (CMEEC);
7. Citizens Lehman Power (Citizens);
8. Burlington Electric Department (BED);
9. Rainbow Energy Marketing Corporation (REMCO);
10. Louis Dreyfus Electric Power, Inc. (LDEP);
11. Niagara Mohawk Power Corporation (NMO);

12. Catex Vitol Electric L.L.C. (Catex);
13. Vermont Marble Power Division of Omya, Inc. (VMPE); and
14. Commonwealth Electric Company (CE)

The sales provide Buyers with needed capacity and associated energy. Montaup may sell system capacity and associated energy pursuant to the terms and conditions of FERC Electric Tariff, Original Volume No. IV (the Tariff). They also allow Buyers except LILCO and BED, through a certificate of concurrence, to provide capacity from one of Buyers units (Exchange Unit), which enables Montaup to make a system sale while maintaining its minimum monthly system capability required under the present NEPOOL Agreement. Montaup requests waiver of the sixty-day notice requirement so that the service agreements may become effective as of each respective service agreement date.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Montaup Electric Company

[Docket No. ER95-1166-000]

Take notice that on June 6, 1995, Montaup Electric Company, filed a Notice of Cancellation of a system-exchange agreement between Montaup and Taunton Municipal Lighting Plant, Montaup Rate Schedule No. 101, Supplement No. 1.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER95-1167-000]

Take notice that on June 6, 1995, Montaup Electric Company filed a Notice of Cancellation for a system-exchange agreement between Montaup and Connecticut Municipal Electric Energy Cooperative, Montaup Rate Schedule No. 102, Supplement No. 1.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Montaup Electric Company

[Docket No. ER95-1168-000]

Take notice that on June 6, 1995, Montaup Electric Company (Montaup), filed executed service agreements to furnish and the following companies (Buyers) to purchase capacity and energy pursuant to the terms and conditions of FERC Electric Tariff, Original Volume No. III (the Tariff) to the following companies:

1. Maine Public Service Company (MPS);
2. Enron Power Marketing, Inc. (ENRON);

3. InterCoast Power Marketing Company (IPMC);
4. Taunton Municipal Lighting Plant (TMLP);
5. Long Island Lighting Company (LILCO);
6. Connecticut Municipal Electric Energy Cooperative (CMEEC);
7. Citizens Lehman Power (Citizens);
8. Rainbow Energy Marketing Corporation (REMCO);
9. Louis Dreyfus Electric Power, Inc. (LDEP);
10. Niagara Mohawk Power Corporation (NIMO);
11. Catex Vitol Electric L.L.C. (Catex);
12. Vermont Marble Power Division of Omya, Inc. (VMPD); and
13. Commonwealth Electric Company (CE).

Montaup and Buyers understand that transactions under the service agreements are purely voluntary and will be entered into only if mutually beneficial and agreeable. Montaup requests a waiver of the sixty-day notice requirements so that the service agreements may become effective as of each respective service agreement date.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER95-1169-000]

Take notice that on June 2, 1995, Boston Edison Company (Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Catex Vitol Electric L.L.C. (Catex). Boston Edison requests that the Service Agreement become effective as of May 1, 1995.

Edison states that it has served a copy of this filing on Catex and the Massachusetts Department of Public Utilities.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER95-1170-000]

Take notice that on June 7, 1995, Tampa Electric Company (Tampa Electric), tendered for filing a Purchase Contract between Tampa Electric and the Tennessee Valley Authority (TVA). Tampa Electric also tendered for filing, as supplements to the Purchase Contract, Purchase Schedule C, providing for Economy Energy Service and Purchase Schedule J, providing for Negotiated Capacity and/or Energy Service.

Tampa Electric proposes an effective date of June 8, 1995, and therefore

requests waiver of the Commission's notice requirement.

Copies of the filing have been served on TVA and the Florida Public Service Commission.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Midwest Power Systems Inc.

[Docket No. ER95-1171-000]

Take notice that on June 7, 1995, Midwest Power Systems Inc. (Midwest), tendered for filing an annual rate revision of the Transmission Service Fee and Amendment No. 2 to Transmission Service and Facilities Agreement (Agreement). On October 23, 1992, FERC accepted for filing and designated Rate Schedule FERC No. 38 for the Agreement between Midwest and Cedar Falls Utilities (CFU). This Agreement provides transmission service to CFU for its share of power and energy from the Council Bluffs Energy Center Unit No. 3 to CFU's system. Exhibit B of the Agreement provides that the transmission service fee shall be reviewed and adjusted annually, if necessary. The purpose of Amendment No. 2 is to specify January 1 as the effective date of annual rate adjustment.

Pursuant to the provisions of § 35.11 of the Commission's Regulations, Midwest respectfully requests a waiver of Commission's Regulations and notice requirements to allow Amendment No. 2 to be effective on January 1, 1995.

MPSI states that copies of this filing were served on Cedar Falls Utilities and the Iowa Utilities Board.

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Midwest Power Systems Inc.

[Docket No. ER95-1172-000]

Take notice that on June 7, 1995, Midwest Power Systems Inc. (Midwest), tendered for filing an annual rate revision of the Transmission Service Fee and Amendment No. 1 to Transmission Service Agreement. On October 23, 1992, FERC accepted for filing and designated Rate Schedule FERC No. 65 for the Transmission Service Agreement (Agreement) between Midwest and Cedar Falls Utilities (CFU). This Agreement provides transmission service to CFU for its share of power and energy from the George Neal Generating Station Unit No. 4 to CFU's system. Section 2 of the Agreement provides that the transmission service fee shall be reviewed and adjusted annually, if necessary. The purpose of Amendment No. 1 is to specify January 1 as the effective date of annual rate adjustment.

Pursuant to the provisions of § 35.11 of the Commission's Regulations, Midwest respectfully requests a waiver of Commission's Regulations and notice requirements to allow Amendment No. 1 to be effective on January 1, 1995.

Midwest states that copies of this filing were served on Cedar Falls Utilities and the Iowa Utilities Board.

Comment date: June 30, 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.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 95-15260 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-P

[Project No. 5728-014 New Hampshire]

Sandy Hollow Power Company, Inc.; Notice of Availability of Environmental Assessment

June 16, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) reviewed the application for amendment for the Sandy Hollow Hydroelectric Project. The application proposes to install a 160 kilowatt turbine with a siphon-fed penstock on the Indian River, in Jefferson County, near the Village of Philadelphia, New York. The staff prepared an Environmental Assessment (EA) for the action. In the EA, staff concludes that approval of the licensee's amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 3308, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15267 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-109-000]

CNG Transmission Corporation; Notice of Availability of the Environmental Assessment for the Proposed TL-470 Extension 5 Project

June 16, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by CNG Transmission Corporation (CNG) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of about 4.73 miles of 30-inch-diameter natural gas pipeline loop in Rooterdam Township, Schenectady County, New York.

The proposed loop would be constructed parallel and adjacent to CNG's existing facilities and would begin at a new gate station on CNG's system near Gregg Road and end at a new gate station near Burdeck Street.

The purpose of the proposed facilities would be to maintain pressure requirements to meet CNG's delivery obligations to Niagara Mohawk Power Corporation's distribution system which serves the Albany, New York area.

The EA has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 941 North Capitol Street, N.E., Room 3104, Washington, D.C. 20426, (202) 208-1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

A limited number of copies of the EA are available from: Mr. Howard Wheeler, Environmental Project Manager, Environmental Review and

Compliance Branch II, Office of Pipeline Regulation, Room 7312, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 208-2299.

Any person wishing to comment on the EA may do so. Written comments must reference Docket No. CP95-109-000, and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Comments should be filed as soon as possible, but must be received no later than July 17, 1995, to ensure consideration prior to a Commission decision on this proposal. A copy of any comments should also be sent to Mr. Howard Wheeler, Environmental Project Manager, Room 7312, at the above address.

Comments will be considered by the Commission but will not serve to make the commentator a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Additional information about this project is available from Mr. Howard Wheeler, Environmental Project Manager.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15262 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-544-000, et al.]

Natural Gas Pipeline Co. of America, et al.; Natural Gas Certificate Filings

June 14, 1995.

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP95-544-000]

Take notice that on June 5, 1995, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP95-544-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to

abandon a natural gas receipt point located in Cass County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural proposes to remove a 4-inch meter and a 4-inch tap that were originally constructed in April, 1984, to receive and transport approximately 8 MMCF of gas per day for Dow Pipeline Company (Dow) pursuant to Section 311(a)(1) of the NGPA. Natural states that its gas exchange agreement with Dow terminated on March 10, 1986. Natural asserts that it subsequently certificated the subject facilities in 1988, under its blanket certificate issued in Docket No. CP82-402-000, in order to provide interruptible transportation service for Cabot Energy Marketing Corporation pursuant to Subpart G of Part 284 of the Commission's Regulations. Natural mentions that the subject facilities were last used in September, 1988, and will not be used in the future.

Comment date: July 5, 1995, in accordance with Standard Paragraph F at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP95-551-000]

Take notice that on June 8, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95-551-000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act for authorization to abandon certain facilities under its blanket certificate issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to abandon by reclaim 235 feet of 10-inch pipeline and to abandon in place 625 feet of 10-inch pipeline located in Douglas County, Kansas. WNG explains that a new section of 16-inch pipeline would be constructed under its blanket certificate authority issued in Docket No. CP82-479-000. WNG further explains that the reclaim cost is estimated to be \$500 with a salvage value of \$289.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: July 31, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission

[Docket No. CP95-556-000]

Take notice that on June 9, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314-1599, filed in Docket No. CP95-556-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish a new point of delivery for firm transportation service and abandon an existing point of delivery and reassign 5,000 dth/day in Maximum Daily Delivery Obligations between points of delivery to Columbia Gas of Ohio, Inc. (COH), in Franklin County, Ohio, under Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that it would construct and operate a new point of delivery for firm transportation service and would provide the service pursuant to Columbia's Blanket Certificate issued in Docket No. CP86-240-000 under existing authorized rate schedules and within certificated entitlements.

Columbia states further that the new point of delivery has been requested by COH for firm transportation service for residential and commercial use. The estimated cost, it is said, would be approximately \$36,200 and would be reimbursed by COH.

Comment date: July 31, 1995, in accordance with Standard Paragraph G at the end of this notice.

4. Pacific Gas Transmission Company

[Docket No. CP95-560-000]

Take notice that on June 12, 1995, Pacific Gas Transmission Company (PGT), 160 Spear Street, San Francisco, California 94105-1570, filed in Docket No. CP95-560-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install a new tap and meter station under PGT's blanket certificate issued in Docket No. CP82-530-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

PGT proposes to install a new tap and meter station near Hermiston, Oregon for delivery of gas to Cascade Natural Gas Corporation.

Comment date: July 31, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95-15261 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-P

City of Watertown; Notice of Availability of Final Environmental Assessment

[Project 2442-001 New York]

June 16, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major new license for the proposed Watertown Project, located in Jefferson County and has prepared a Final Environmental Assessment (EA) for the project.

On April 10, 1995, staff issued and distributed to all parties a draft EA and requested that all comments on the draft EA be filed within 30 days. All comments that were timely filed have been considered in this final EA.

In the final EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

For further information, please contact Peter Leitzke, Environmental Coordinator, at (202) 219-2803.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-15265 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-552-000, et al.]

Seagull Natural Gas Company, et al.; Natural Gas Certificate Filings

June 15, 1995.

Take notice that the following filings have been made with the Commission:

1. Seagull Natural Gas Company

[Docket No. CP95-552-000]

Take notice that on June 8, 1995, Seagull Natural Gas Company (Seagull), 1700 First City Tower, 1001 Fannan

Street, Houston, Texas 77002, filed a petition in Docket No. CP95-552-000, requesting that the Commission declare that its facilities extending from an offshore platform located in Brazos Area, Block 366, Offshore Texas to an onshore separation and dehydration facility located in Brazoria County, Texas are gathering facilities exempt from Commission jurisdiction pursuant to Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Seagull states that it owns and operates a pipeline facility in offshore Texas waters known as the Brazos 366 Line, which consists of a 12.86 mile, 8-inch line and a 0.13 mile, 4-inch line. It is indicated that the facility extends from a platform owned by Rutherford Oil and Gas Company in Brazos Area Block 366 to a separation and dehydration facility owned by Dow Hydrocarbons and Resources, Inc. (Dow) located approximately one mile onshore in Brazoria County, Texas. It is stated that the only pipeline connected to the tailgate of the Dow plant is an 8-inch line owned by Dow.

Seagull states that it uses the facility to gather gas production for others and to deliver those volumes to the Dow plant for separation and dehydration. It is also stated that, in addition to the gas produced from the Rutherford 366 Platform, the facility also transports gas produced from production platforms in Brazos Blocks 340, 375, and 376 and gathered to the Rutherford 366 Platform through lines owned either by Seagull or producers. It is also stated that volumes produced from Brazos Block 444 are delivered to the facility at its approximate mid-point through producer-owned facilities. It is also stated that most of the gas moved through the facility is destined for Texas intrastate markets or interstate markets on behalf of two shippers pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978. Seagull has stated that recently it has reevaluated the nature of the facility and the service it provides and concluded that the facility and the services it provides through that facility are gathering.

In support of its claim that the primary function of the pipeline is gathering, Seagull indicates that the facility meets the gathering criteria set forth in Farmland Industries, Inc., 23 FERC ¶ 61.063 (1983), as modified by later Commission orders, indicating the following:

Length and Diameter of the Line

Seagull states that offshore lines of comparable and greater length and

diameter, including a 45 to 60 mile, 14-inch diameter pipeline (see 69 FERC ¶ 61,272 (1994)), have been characterized as gathering. It is also indicated that the location of the Seagull facility is solely a function of the location of the production in the Brazos area in relation to the Dow plant.

Location of Compressor and Processing Plants

Seagull also states that it neither owns nor operates any compressors along the facility, and that the facility relies on wellhead pressure and any pressure generated from producer-owned compression located on the various platforms directly or indirectly connected to the facility. It is also indicated that the only plant near the facility is the Dow separation/dehydration facility located at the terminus of the facility.

Extension of the Facility Beyond the Central Point in the Field

Seagull states that, because the facility is configured solely to deliver gas to the Dow plant from various producing platforms in the offshore Brazos area, there is no true central point in the field. Seagull concludes that the application of this factor in determining whether the facility is a gathering facility is inappropriate.

Location of Wells

Seagull states that the facility is located in a prolific producing area and is designed to gather gas from various production platforms for delivery to a separation and dehydration facility. Seagull states that, although this criterion requires that wells be located along all or part of onshore facilities, the Commission has found that offshore facilities do not need to meet this requirement for the Commission to find that such facilities provide a gathering function. It is also noted that there is a field connection approximately at the facility's mid-point.

Geographic Configuration of the Facility

Seagull states that the facility is a straight line gathering platform from various platforms for delivery to an onshore separation plant, a configuration similar to numerous other offshore systems previously determined to be gathering.

Operating Pressure

Seagull states that the maximum operating pressure of the facility is 800 psig, and that the Commission has determined that other offshore facilities with much higher pressures are gathering facilities.

Primary Function

Seagull indicates that the primary business purpose of owning and operating the facility is to gather gas that is owned by non-affiliated third-party producers in the offshore Brazos area for delivery to the Dow plant. It is also indicated that neither Seagull or any of its affiliates owns or purchases any of the gas gathered by the facility, and that neither Seagull or any of its affiliates owns or operates any facilities subject to the Commission's Natural Gas Act jurisdiction.

Comment date: July 6, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP95-555-000]

Take notice that on June 9, 1995, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP95-555-000 an application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Commission's Regulations thereunder for permission and approval to abandon a natural gas exchange service with Columbia Gulf Transmission Company (Columbia Gulf) all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural proposes to abandon the exchange service between Natural and Columbia Gulf provided under Natural's Rate Schedule X-125. Natural states that pursuant to a gas transportation and exchange agreement (Agreement) between Natural and Columbia Gulf dated September 30, 1980, Natural made available for exchange up to 10,000 Mcf of natural gas per day to Columbia Gulf at Columbia Gulf's Pecan Island Plant located in Vermilion Parish, Louisiana. Natural explains that from Pecan Island, Columbia Gulf transported Natural's gas to Columbia Gulf's Rayne Compressor Station located in Acadia Parish, Louisiana at which point it became Columbia Gulf's by exchange. Natural further explains that Columbia Gulf then redelivered to Natural equivalent volumes of natural gas available to Columbia Gas Transmission Corporation at the outlet of Texaco Inc.'s Henry Plant located in Vermilion Parish, Louisiana.

Natural states that by settlement agreement between Natural and Columbia Gulf dated May 15, 1995, Natural and Columbia Gulf agreed to terminate the Agreement (and Natural's Rate Schedule X-125 exchange service)

through the payment of a negotiated exit fee by Natural to Columbia Gulf in consideration for Columbia Gulf's early termination and abandonment of, among other things, the transportation and exchange service performed under the exchange agreement.

Comment date: July 6, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. CNG Transmission Corporation

[Docket No. CP95-562-000]

Take notice that on June 12, 1995, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP95-562-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by removal a 1.2 mile segment of 6-inch diameter pipeline located in Tyler County, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

CNG states that the pipeline was installed by CNG's predecessor, Hope Natural Gas Company (Hope) in 1925 and authorized by the Commission under Hope's grandfather certificate in 1942 in Docket No. G-290. It is stated that the line was installed to provide service to a customer of Hope Gas, Inc. It is further stated that the pipeline segment had deteriorated and had to be closed off in May 1984, with the customer relocated to receive service from another line in the vicinity. It is asserted that the proposed abandonment would have no impact on service to any customer since the single customer being served has been relocated.

Comment date: July 6, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene

in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 95-15259 Filed 6-21-95; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL MARITIME COMMISSION**Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended

American Classic Voyages Company, Two North Riverside Plaza, Suite 600, Chicago, Illinois 60606

Vessel: AMERICAN QUEEN

Dated: June 16, 1995.

Joseph C. Polking,
Secretary.

[FR Doc. 95-15313 Filed 6-21-95; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder

licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3764

Name: Inteks Trans-International, Inc.
Address: 22431 South Vermont Ave.,
Torrance, CA 90502

Date Revoked: May 5, 1995

Reason: Surrendered license voluntarily.

License Number: 2206

Name: Sea Cargo International, Inc.
Address: 5467 Northwest 72nd Ave.,
Miami, FL 33166

Date Revoked: May 31, 1995

Reason: Failed to furnish a valid surety bond.

License Number: 3733

Name: Complete Cargo Systems, Inc.
Address: 2600 N.W. 79th Ave., Miami,
FL 33122

Date Revoked: June 1, 1995

Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95-15288 Filed 6-21-95; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Logistics International, Inc., 10159 11th Street, Suite 310, Tulsa, OK 74128,
Officers: Mitchell L. Bray, President; Maria U. Canteras, Secretary

Caribbean Cold Storage, Inc., 136 N. Myrtle Ave., Suite 201, Jacksonville, FL 32204,
Officers: Julie Robbins, President; Paul V. Robbins, Vice President

William J. Siemens, III, 7027 Llama Street, La Costa, CA 92009, Sole Proprietor.

Dated: June 16, 1995.

By the Federal Maritime Commission.

[FR Doc. 95-15287 Filed 6-21-95; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Sahara Motors Incorporated, 6734 Doolittle #M, Riverside, CA 92503, Officer: Abdallah Elaref Bezan, President

Caribbean Cold Storage, Inc., 136 N. Myrtle Ave., Suite 201, Jacksonville, FL 32204,
Officers: Julie Robbins, President, Paul V. Robbins, Vice President

AquaOcean Transport, Inc., d/b/a/ ATI R.G.R. Shipping & Forwarding B.V., P.O. Box 9199, 3007 AD Rotterdam, The Netherlands, Officers: R.W. van Tuyll, President; Bob Peska, Vice President

Intermar International Inc., 9300 N.W. 58th Street, Miami, FL 33178, Officer: Angelo Carrasquillo, President

Tampa Bay Ocean Services, Inc., 6001 Jet Port Industrial Blvd., Tampa, FL 33614,
Officers: Ana I. Penichet, President; Magda Maranzana, Vice President.

Dated: June 16, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95-15286 Filed 6-21-95; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Caisse Nationale de Credit Agricole; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 6, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Caisse Nationale de Credit Agricole, Paris, France; to engage *de novo* through its subsidiary, Credit Agricole Futures, Inc., Chicago, Illinois, in becoming both a member firm and a clearing member of the Coffee, Sugar and Cocoa Exchange, Inc., New York, New York, pursuant to § 225.25(b)(18) of the Board's Regulation Y and Supervision and Regulation Letter 93-27.

Board of Governors of the Federal Reserve System, June 16, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-15294 Filed 6-21-95; 8:45 am]

BILLING CODE 6210-01-F

First Savings Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 17, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Savings Financial Corp.*, Reidsville, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of First Savings Bank of Rockingham County, S.S.B. Reidsville, North Carolina.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *C. B. Bank Shares, Inc.*, Russiaville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Central Bank, Russiaville, Indiana.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Watford City Bancshares, Inc.*, Watford City, North Dakota; to acquire 100 percent of the voting shares of First International Bank & Trust, Scottsdale, Arizona, a *de novo* bank.

Board of Governors of the Federal Reserve System, June 16, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-15295 Filed 6-21-95; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F-0122]

Hempel Coatings (USA), Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hempel Coatings (USA), Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of meta-xylylenediamine and 3-diethylaminopropylamine as components of articles intended for food-contact use.

DATES: Written comments on the petitioner's environmental assessment by July 24, 1995.

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

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4457) has been filed by Hempel Coatings (USA), Inc., 6901 Cavalcade St., Houston, TX 77028. The petition proposes to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of meta-xylylenediamine and 3-diethylaminopropylamine as components of articles intended for food-contact use.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before July 24, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental

impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 13, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95-15348 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 95F-0130]

Shell Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Shell Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyethylene terephthalate polymers in which the finished polymer contains less than 50 weight percent of ethylene-2,6-naphthalate as components of articles intended for food-contact use.

DATES: Written comments on the petitioner's environmental assessment by July 24, 1995.

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

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4450) has been filed by Shell Chemical Co., 130 Johns Ave., Akron, OH 44305-4097. The petition proposes to amend the food additive regulations in § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) to provide for the safe use of polyethylene terephthalate polymers in which the finished polymer contains less than 50 weight percent of ethylene-2,6-naphthalate as components of articles intended for food-contact use.

The potential environmental impact of this action is being reviewed. To

encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before July 24, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 13, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95-15346 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing changes to its Orphan Products Development (OPD) grant program for fiscal year (FY) 1996. Previously, the \$200,000 grant for phase 2 or 3 trials could only be awarded for a maximum of 2 years. Now all grants, including the \$200,000 grant, may be awarded for a maximum of 3 years. This document is intended to inform eligible applicants of the application receipt dates, the estimated amount of funds available, the estimated number of awards to be made in FY 1996, and any changes in

programmatic requirements, as well as to inform eligible applicants of the new extended length for all grants.

DATES: Application receipt dates are October 1, 1995, and January 15, 1996. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day.

ADDRESSES: Application forms are available from, and completed applications should be submitted to: Robert L. Robins, Grants Management Officer, Grants and Agreements Management Branch (HFA-520), Food and Drug Administration, Park Bldg., rm. 3-40, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6170.

Note: Applications hand-carried or commercially delivered should be addressed to the Park Bldg., rm. 3-40, 12420 Parklawn Dr., Rockville, MD 20857. Do not send applications to the Division of Research Grants, National Institutes of Health (NIH).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Robert L. Robins (address above).

Regarding the programmatic aspects of this notice: Patricia R. Robuck, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, rm. 8-73, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 15, 1994 (59 FR 41769), FDA announced that the agency would publish a notice annually in the **Federal Register** that references the August 15, 1994, standing announcement and reminds eligible applicants of: The receipt dates, the estimated amount of funds available, the estimated number of awards to be made during the fiscal year, and any changes in programmatic requirements or criteria. All provisions of the August 1994 standing announcement are applicable to the FY 1996 OPD grant program, except for the changes described below, and applicants should refer to the standing announcement for additional information. The OPD grant program standing announcement changes for FY 1996 are set forth below.

FDA is announcing the anticipated availability of funds for FY 1996 for awarding grants to support clinical trials on safety and effectiveness of products for rare diseases and conditions (i.e., those affecting fewer than 200,000 people in the United States). Contingent on availability of FY 1996 funds, it is anticipated that \$12 million will be available for these grants, of which \$6.2

million will be for noncompeting continuation awards. This will leave \$5.8 million for funding the following: Approximately \$2.9 million for 20 grants (phase 1, 2, or 3 trials) up to \$100,000 each in direct costs per annum plus applicable indirect costs for up to 3 years, and approximately \$2.9 million for 10 grants (phase 2 and 3 trials only) up to \$200,000 each in direct costs per annum plus applicable indirect costs for up to 3 years. Applications exceeding this direct cost limit will be considered nonresponsive and will be returned to the applicant. The current, active investigational new drug (IND) or investigational device exemption (IDE) number for the proposed study must appear on the face page of the application with the title of the project.

In the **Federal Register** of August 15, 1994, under "II. Human Subject Protection and Informed Consent," in section B. Informed Consent, the agency stated that consent and/or assent forms, and any additional information to be given to a subject should accompany the grant application. Under current procedures, consent and/or assent forms, and any additional information to be given to a subject, must be included in the grant application.

In addition, in the **Federal Register** of August 15, 1994, under "V. Review Procedure and Criteria," in section B. Program Review Criteria, paragraph 3, the agency stated that if the sponsor of the IND/IDE is other than the principal investigator listed on the application, a letter from the sponsor verifying access to the IND/IDE is required. Under current procedures, if the sponsor of the IND/IDE is other than the principal investigator listed on the application, documentation must be provided in the grant application verifying that the grant applicant and the proposed protocol are included in the IND/IDE. Applications that do not have an active IND or IDE for the proposed study *at the time of application* will be considered nonresponsive.

In the same section, paragraph 4, the agency stated that the requested budget must be within the limits (either \$100,000 in direct costs for up to 3 years or \$200,000 in direct costs for up to 2 years) as stated in the request for applications. Under current procedures, the requested budget must be within the limits (either \$100,000 in direct costs for any phase study or up to \$200,000 in direct costs for studies in phase 2 or 3) as stated in the request for applications. The maximum study period will be 3 years.

The outside of the mailing package and item 2 of the application face page

should be labeled: "Response to RFA-CFDA-OP-96-1."

The grants are funded under the legislative authority of section 301 of the Public Health Service Act (PHS act)(42 U.S.C. 241). All awards will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. All funded studies are subject to the requirements of the Federal Food, Drug, and Cosmetic Act (the act) and regulations promulgated thereunder. The regulations promulgated under Executive Order 12372 do not apply to this program.

All grant awards are subject to applicable requirements for clinical investigations imposed by sections 505, 507, 512, 515, and 520 of the act (21 U.S.C. 355, 357, 360b, 360e, and 360j), section 351 of the PHS act (42 U.S.C. 262), and regulations promulgated under any of these sections.

Dated: June 19, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-15350 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 94D-0397]

Powered Wheelchair Labeling; Letter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a letter concerning the labeling of powered wheelchairs. This letter, which was sent to all powered wheelchair, scooter, and accessory and component manufacturers, describes the agency's increasing concern about electromagnetic interference (EMI) with powered wheelchairs and motorized scooters (hereinafter collectively called powered wheelchairs). FDA believes that electromagnetic (EM) energy is causing these devices to move unintentionally. This letter is intended to establish certain necessary steps that powered wheelchair manufacturers should follow in order to help minimize the risks associated with the unintended movement of powered wheelchairs caused by EMI. FDA is publishing this notice because it believes that the letter may not have reached all interested persons.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the letter to the Division

of Small Manufacturers Assistance (HFZ-220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6597 or 1-800-638-2041. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the letter to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The letter and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Marie A. Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-1296.

SUPPLEMENTARY INFORMATION: On May 26, 1994, FDA issued a letter to all powered wheelchair, scooter, accessory, and component manufacturers explaining FDA's increasing concern about the effects of EMI on the safe use of powered wheelchairs. FDA has received many reports of erratic and unintentional powered wheelchair movement. The agency believes that EM energy is causing these devices to move unintentionally. As a result of these concerns, FDA established the following steps in order to provide information to protect powered wheelchair users from the potential hazards of EMI.

I. Minimum Recommended Immunity Level

FDA recommends that all marketed powered wheelchairs have a minimum immunity level of 20 volts per meter (V/m). This immunity level was proposed by wheelchair manufacturers at the American National Standards Institute/Association for the Advancement of Rehabilitation Technology meeting in June 1993, and it reflects the present technological capability that can be immediately implemented.

II. Product Labeling

The labeling described in FDA's letter is intended to inform powered wheelchair users about the risks from EMI associated with the use of powered wheelchairs and how to avoid these risks. This labeling should be on or attached to the powered wheelchair and provide the following information:

1. An explanation of what EMI is, what causes EMI, and the risks associated with EMI;
2. An explanation of how the user can avoid risks associated with EMI, including warnings to use caution around sources of EMI;
3. A Warning that the addition of accessories or components, or modifications to a powered wheelchair may make it more susceptible to EMI, and that there is no easy way to evaluate their effect on the overall immunity of the powered wheelchair;
4. A statement that, as of May 1994, 20 V/m is a generally achievable and useful immunity level; and
5. A statement of the EMI immunity level of the powered wheelchair, or a statement that the EMI immunity level is not known.

FDA believes that this information will help minimize the risks associated with unintended movement of powered wheelchairs caused by EMI. Omission of the labeling information requested above will result in a failure of the powered wheelchair labeling to include facts relevant to the powered wheelchair's use and in a failure to provide adequate warnings, as required by section 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352). Accordingly, products shipped without the required labeling may be considered misbranded under section 502 of the act.

III. Recommended Educational Program

FDA recommends that manufacturers implement an educational program to warn users of the potential hazards of EMI and to provide information about the risks and how to avoid them.

Additionally, FDA will continue to solicit reports of EMI problems and to monitor the problems in order to evaluate the full scope of the problem.

Interested persons may, at any time, submit to the Docket Management Branch (address above) written comments on the powered wheelchair labeling letter. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The letter and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in determining whether future action should be taken to address concerns about the effects of EMI on powered wheelchairs.

Dated: June 12, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95-15347 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1-800-741-8138 or 301-443-0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Gastrointestinal Drugs Advisory Committee

Date, time, and place. July 12, 1995, 9 a.m., Holiday Inn—Bethesda, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD-180), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 419-259-6211, or Valerie M. Mealy, Advisors and Consultants Staff (HFD-9), 301-443-4695, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC

area), Gastrointestinal Drugs Advisory Committee, code 12538.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 30, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss new drug application (NDA) 20-458, Lemmon Co., zinc acetate to be indicated for use in Wilson's disease. The advisory committee will also consider draft "Points to Consider" from the Division of Anti-Infective Drug Products on *Helicobacter pylori* studies to prevent peptic ulcer recurrence.

National Mammography Quality Assurance Advisory Committee

Date, time, and place. July 18 and 19, 1995, 9 a.m., Hyatt Regency—Bethesda, Cabinet-Judiciary Suite, One Bethesda Metro Center, Bethesda, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301-657-1234 and reference the FDA Committee meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open public hearing, July 18, 1995, 9 a.m. to 10 a.m., unless public participation does not last that long; open subcommittee discussions, 10 a.m. to 5 p.m.; open subcommittee discussions, July 19, 1995, 9 a.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; Charles K. Showalter, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3332, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), National Mammography Quality Assurance Advisory Committee, code 12397.

General function of the committee. The committee advises on developing appropriate quality standards and

regulations for the use of mammography facilities.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 11, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 19, 1995, the committee will discuss the ongoing work of the three subcommittees: Access to Mammography Services, Physicists Availability, and Cost Benefit of Compliance.

Open subcommittee discussions. On July 18 and 19, 1995, the three subcommittees will meet concurrently. The subcommittees will discuss the ongoing work which is necessary to make the determinations and subsequently prepare the reports as mandated in the Mammography Quality Standards Act. Upon completion, the subcommittee reports will be reviewed by the committee prior to submission to the Secretary of Health and Human Services and Congress.

Ophthalmic Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. July 20 and 21, 1995, 8:30 a.m., Bethesda Pooks Hill Marriott, Congressional Ballroom, 5151 Pooks Hill Rd., Bethesda, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301-897-9400 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Ed Rugenstein, Sociometrics, Inc., 301-608-2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, July 20, 1995, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; open public hearing, July 21, 1995, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 12 m.; Sara M. Thornton, Center for Devices and Radiological Health

(CDRH) (HFZ-460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2053, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Ophthalmic Devices Panel, code 12396.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 7, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 20, 1995, the Division of Ophthalmic Devices will propose a redraft of the myopia refractive laser guidance document and request discussion and comments from the public and the panel and panel recommendations on designated sections. Single copies of the proposed redraft are available from Sara M. Thornton (address above). On July 21, 1995, the Contact Lens Branches will present an overview of the draft premarket notification (510(k)) guidance document for lens care products to be used as a special control for reclassification of contact lens care products. The committee will discuss and recommend the classification status for vision trainers. There will also be general updates from the Contact Lens Branches, Intraocular Implants Branch, and Diagnostic and Surgical Devices Branch within CDRH.

Oncologic Drugs Advisory Committee

Date, time, and place. July 24 and 25, 1995, 8 a.m., Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 24, 1995, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open committee discussion, July 25, 1995, 8 a.m. to 11:30 a.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-

0572 in the Washington, DC area), Oncologic Drugs Advisory Committee, code 12542.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 19, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 24, 1995, the committee will discuss: (1) NDA 20-036, Aredia® (pamidronate disodium for injection, Ciba Pharmaceuticals Division, Ciba-Geigy Corp.), "for the treatment of bone metastases associated with multiple myeloma," and (2) NDA 20-509, Gemzar® (gemcitabine hydrochloride, Eli Lilly), "as first line treatment for patients with advanced (nonresectable Stage II or Stage III) or metastatic (Stage IV) adenocarcinoma of the pancreas," and "for patients with 5-FU-refractory pancreatic cancer." On July 25, 1995, the committee will discuss product license application PLA 94-0799 Intron®A, (interferon alpha 2b, recombinant, Schering, Inc.), for "post-operative adjuvant therapy in malignant melanoma."

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee

chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HF1-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 13, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95-15240 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

RIN 0905-ZA90

Program Announcement and Proposed Project Requirements, Review Criteria, and Funding Preference for Cooperative Agreement for a Model Hispanic Health Careers Opportunity Program for Fiscal Year 1995

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for a fiscal year (FY) 1995 Cooperative Agreement for a Model Hispanic Health Careers Opportunity Program (HCOP) under the authority of section 740, title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, dated October 13, 1992. Comments are invited on the proposed project requirements, review criteria and funding preference.

Approximately \$300,000 will be available in FY 1995 for this program. It is anticipated that one competing award will be made at a level of \$300,000 per year over a three year period.

Purpose and Eligibility

Section 740 authorizes the Secretary to make grants to and enter into contracts with schools of allopathic medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic and podiatric medicine and public and nonprofit private schools which offer graduate programs in clinical psychology and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from such schools. Assistance may be used for the following five legislative purposes:

1. Recruitment—activities designed to identify, recruit and select individuals from disadvantaged backgrounds for education in the health or allied health professions, e.g., motivational activities, distribution of information, exposure to role models, and counseling.

2. Preliminary Education—education designed to expand the academic ability and otherwise prepare student participants from disadvantaged backgrounds during their

preprofessional training that they may subsequently complete the regular course of education in a health professions school or school of allied health. This education must be offered prior to entry in a health professions or allied health professions school and may not include courses already taught as part of the regular course of education leading to a degree.

3. Facilitating Entry—activities designed to enhance the competitiveness of student participants from disadvantaged backgrounds for admission to health professions schools or schools of allied health, such as improving performance on admissions tests, counseling concerning the application process, and assisting admissions committees in the evaluation of disadvantaged applicants.

4. Retention—activities designed to help student participants from disadvantaged backgrounds, who have been accepted to or are enrolled in health professions schools or schools of allied health, to complete their education. These activities may include tutorial assistance, counseling, and assistance in adjusting to the environment of the school. Activities may not include courses already taught as part of the school's curriculum.

5. Financial Aid Information Dissemination—the distribution of information to student participants from disadvantaged backgrounds about financial aid available in health professions schools, schools of allied health or schools and entities which provide training necessary to qualify for enrollment in health professions schools or schools of allied health.

Applicants may request support for up to three years.

The Model Hispanic HCOP cooperative agreement is being proposed in an effort to achieve the following goals: (1) To establish and test a comprehensive Model Hispanic HCOP (addressing all of the HCOP purposes) in a metropolitan area with a high concentration of Hispanic citizens. No such model currently exists. In addition to the formulation of academic-community educational partnerships, this model provides for community infrastructure building. The proposed model encompasses strong linkages throughout the community involving community organizations, official agencies, educational institutions at all levels and health professionals throughout the community, and (2) To increase the number of Hispanic participants in HCOP programs.

This cooperative agreement also addresses section 740(c) of the HCOP legislation which requires "the

Secretary to ensure that services and activities under HCOP awards are equitably allocated among the various racial and ethnic populations."

Proposed Project Requirements

I. The Model Hispanic HCOP will establish an educational continuum from high school graduation through graduation from a health or allied health professions school through development and implementation of activities related to all five of the legislative purposes.

II. A plan for selecting students including criteria for selection must be developed and implemented.

III. Activities related to all of the five legislative purposes undertaken must be evaluated. Modifications must be made in activities based on evaluation.

IV. Activities and experiences related to the establishment of the Model Hispanic HCOP must be documented in a format that would allow for future replication by HCOP applicants.

Substantial Federal Programmatic Involvement

It is anticipated that the federal government will have substantial programmatic involvement with the planning, development and administration of the Model Hispanic HCOP and its outputs by:

1. Providing technical assistance and reviewing changes needed in the approved application.

2. Reviewing and advising regarding training content and methodologies.

3. Participating in the review and advising regarding formal linkage arrangements which have been established for the purpose of conducting the Model Hispanic HCOP.

4. Reviewing the validity of and assisting in the modification of student participant selection criteria and processes.

5. Providing information relative to proven evaluation methods, including data collection methods, data analysis techniques and participant tracking systems.

6. Reviewing and advising regarding program evaluation methods, including data collection activities, data analysis techniques and participant tracking systems.

7. Reviewing and advising regarding the documentation of the activities and experiences related to establishment of the Model Hispanic HCOP.

8. Providing data and information about federal programs that may impact the Model Hispanic HCOP.

9. Participating in the review of sub-contracts awarded under the Cooperative Agreement.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017-001-00474-0) or *Healthy People 2000* (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Pub. L. 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Proposed Review Criteria

The following criteria are proposed for review of applications for this program:

1. Compliance with the Standard Application Instructions for Form 6025-1, and the Supplement to Instructions for Form 6025-1.

2. The relationship of the proposed project to the purposes stated in the legislative authorization, the stated problem, the particular needs to be addressed, and the relevance of proposed objectives to the identified needs.

3. The extent and outcomes of past efforts and activities of the institution in conduct of disadvantaged student programs particularly for Hispanics and enrollment data on the target population (current and past three years) and the extent to which these data indicate trends.

4. The relevance of objectives to the stated problem and need, and to Model Hispanic HCOP purposes; their measurability and attainability within a specific time frame; and the extent to which they represent outcome measures.

5. The number of Hispanic individuals who can be expected to

benefit from the project, types of participants by gender, metropolitan area, and educational level; the appropriateness of the proposed participant eligibility requirements and student selection criteria and process.

6. The specific activities and their scope and relevance to the stated objectives and project outcomes, and the appropriateness of these activities for Model Hispanic HCOP support along with the extent and nature of the academic content and non-academic services and their suitability to the needs of the target group.

7. The logic and sequencing of the planned approaches, soundness for delivery of academic content and non-academic services and appropriateness of scheduling and time allocation.

8. The administrative and managerial capability of the applicant to carry out the project in a cost effective manner considering the extent of past efforts and institutional commitment to disadvantaged students.

9. The adequacy of the staff and faculty to carry out the program; the academic and experiential background, and time commitment of key staff and faculty, the nature and level of their involvement, and their experience in working with the proposed target group.

10. The soundness of the budget for assuring effective utilization of cooperative agreement funds and the cost effectiveness of the proposed project; the compatibility of budget requests with program objectives and activities, the adequacy of the line item justifications, and the extent of the applicant's in-kind contributions.

11. Institutional or organizational plan for phasing-in income from other sources; developing self-sufficiency funding initiatives and strategies (after the end of the current federally funded project period); and achieving self-sufficiency based on a timetable and the level of financial support needed.

12. Extent to which project plans are transferable to other institutions.

Other Considerations

In addition, the following funding factor will be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Proposed Funding Preference

A funding preference will be given to a nonprofit, accredited four-year undergraduate college or university:

1. Where Hispanic students constitute a minimum of 25 percent of the total enrollment at either the graduate or undergraduate level;

2. Which is located in a geographic area with a high concentration of Hispanic residents (approximately 20 percent of the area's total population) such as the following: Anaheim, Los Angeles, Riverside, San Diego and San Jose, California; Miami, Florida; Chicago, Illinois; Northern New Jersey; Long Island and New York City, New York; El Paso, Dallas, Fort Worth, Galveston, Houston, and San Antonio, Texas; and

3. Which is able to establish and document formal linkage arrangements with local community colleges, community health organizations and health professions and/or allied health professions schools.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin. The 25 percent minimum enrollment has been established through public notice and comment in the Centers of Excellence Program, authorized under section 739 of the PHS Act as representing a significant number of minority students.

Additional Information

Interested persons are invited to comment on the proposed project requirements, review criteria, and funding preference. The comment period is 30 days. All comments received on or before July 24, 1995, will be considered before the final project requirements, review criteria, and funding preference are established. Written comments should be addressed to: Mr. William J. Holland, Acting Director, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-09, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Disadvantaged Assistance, Bureau of Health Professions, at the above address, weekdays (federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be

directed to: Ms. Diane Murray, Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857 FAX: (301) 443-6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Mr. Darl Stephens, Chief, Program Development Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone : (301) 443-3843 FAX: (301) 443-5242.

Paperwork Reduction Act

The standard application form PHS 6025-1, HRSA Competing Training Grant Application and General Instructions have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915-0060.

The deadline date for receipt of applications is August 7, 1995. Applications will be considered to be "on time" if they are either:

- (1) *Received on or before* the established deadline date, or
- (2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Model Hispanic HCOP, is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: May 23, 1995.

Ciro V. Sumaya,
Administrator.

[FR Doc. 95-15279 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-15-P

National Vaccine Injury Compensation Program: Revised Amount of the Average Cost of a Health Insurance Policy

The Health Resources and Services Administration is publishing an updated monetary amount of the average cost of a health insurance policy as it relates to the National Vaccine Injury Compensation Program (VICP).

Subtitle 2 of Title XXI of the Public Health Service Act, as enacted by the National Childhood Vaccine Injury Act of 1986 and as amended, governs the VICP. The VICP, administered by the Secretary of Health and Human Services (the Secretary), provides that a proceeding for compensation for a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition with the United States Court of Federal Claims. In some cases, the injured individual may receive compensation for future lost earnings, less appropriate taxes and the "average cost of a health insurance policy, as determined by the Secretary."

Section 100.2 of the VICP's implementing regulations (42 CFR part 100) provides that revised amounts of an average cost of a health insurance policy, as determined by the Secretary, are to be published from time to time in a notice in the **Federal Register**. The previously published amount of an average cost of a health insurance policy was \$183.86 per month (58 FR 52782, October 12, 1993); this amount was based on data from a survey by the Health Insurance Association of America, updated by a formula using changes in the medical care component of the Consumer Price Index (CPI) (All Urban Consumers, U.S. City average) for the period October 1, 1991, through June 30, 1993.

The Secretary announces that for the 12-month period, July 1, 1993, through June 30, 1994, the medical care component of the CPI increased 4.6 percent. According to the regulatory formula (§ 100.2), 2 percent is added to the actual CPI change for each year. Therefore, the adjusted CPI change results in an increase of 6.6 percent for this 12-month period. Applied to the baseline amount of \$183.86, this results in the amount of \$195.99.

The medical care component of the CPI change for the 6-month period, July 1, 1994, through December 31, 1994, was 2.3 percent. According to the regulatory formula, one-half of the annual adjustment, or 1.00 percent, is added to the actual CPI change for this 6-month period. Therefore, according to the current regulatory formula, the adjusted CPI change results in an

increase of 3.3 percent for this 6-month period. Applied to the \$195.99 amount, this results in a new amount of \$202.46.

Therefore, the Secretary announces that the revised average cost of a health insurance policy under the VICP is \$202.46 per month. In accordance with § 100.2, the revised amount was effective upon its delivery by the Secretary to the United States Court of Federal Claims (formerly known as the United States Claims Court). Such notice was delivered to the Court on May 19, 1995.

Dated: June 19, 1995.

Ciro V. Sumaya,
Administrator.

[FR Doc. 95-15345 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-15-P

Office of Community Services

[Program Announcement No. OCS 95-09]

Request for Applications Under the Office of Community Services' Fiscal Year 1995 Training, Technical Assistance, and Capacity-Building Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Request for Applications Under the Office of Community Services' Training, Technical Assistance and Capacity-Building Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's authority under Section 674(a) of the Community Services Block Grant Act of 1981, as amended, the Human Services Amendments of 1994, (Pub. L. 103-252). This Program Announcement consists of seven parts. Part A covers information on the legislative authority and defines terms used in the Program Announcement. Part B describes the purposes and Priority Areas that will be considered for funding, and describes which organizations are eligible to apply in each Priority Area. Part C provides details on application prerequisites, amounts of funds available in each Priority Area, tentative numbers of grants to be awarded, etc. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package and the application itself. Part F provides instructions for completing an

application. Part G details post-award requirements.

CLOSING DATES: The closing time and date of receipt of applications is 6:30 p.m. EDST on August 21, 1995. Applications received after 6:30 p.m. will be classified as late.

FOR FURTHER INFORMATION CONTACT: Mae Brooks, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447. You may also call (202) 401-9343. This Program Announcement is accessible on the OCS Electronic Bulletin Board for downloading through a computer modem by calling 1-800-627-8886. For assistance in accessing the Bulletin Board, A Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401-5309.

PART A—Preamble

1. Legislative Authority

Under Section 674(a) (1) and (2) of the Community Services Block Grant (CSBG) Act of 1981, as amended by the Human Services Amendments of 1994, Public Law 103-252, the Secretary of Health and Human Services is authorized to utilize a percentage of appropriated funds for training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under this subtitle. To carry out the above activities, the Secretary is authorized to make grants, or enter into contracts or cooperative agreements with eligible entities or with organizations or associations whose membership is composed of CSBG-eligible entities or agencies that administer programs for CSBG-eligible entities.

The process for determining the technical assistance, training and capacity-building activities to be carried out under this referenced section shall (a) ensure that the needs of community action agencies and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and (b) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action, State and national networks. Additionally, the OCS has established the CSBG Task Force on Monitoring and Assessment which has taken a comprehensive approach to monitoring which includes establishing national goals and outcome measures, reviewing data needs relevant to these outcome measures, and assessing technical assistance and training

provided toward capacity building with the community action network, including community action agencies and related State and national associations.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

Eligible entity means any organization which was officially designated as a community action agency (CAA) or a community action program under Section 673(1) of the Community Services Block Grant Act (CSBG), and meets all the requirements under Section 675(c)(3) of the CSBG Act. All eligible entities are current recipients of Community Services Block Grant funds, including Migrant and Seasonal Farmworker programs which received CSBG funding in the previous fiscal year (FY 1994). In cases where eligible entity status is unclear, final determination will be made by OCS/ACF.

Performance Measure is a tool used to objectively assess how a program is accomplishing its mission through the delivery of products, services, and activities.

Outcome Measures are indicators which focus on the impacts/improvements one wants to have on its customers; they must be primary and in compliance with Federal requirements.

Results-Oriented Management is an approach to monitoring and assessment that identifies measures of program success that are targeted to outcome measures.

Training is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, conferences or programs of self-instructional activities.

Technical assistance is an activity, generally utilizing the services of an expert, aimed at enhancing capacity, improving programs and systems, or solving specific problems. Such services may be provided proactively to improve systems or as an intervention to solve specific problems. Services may be provided on-site, by telephone, or other communications systems.

State means all of the States and the District of Columbia. Except where specifically noted, for purposes of this Program Announcement, it also means Territory.

Territory refers to the Commonwealth of Puerto Rico, the American Virgin Islands, Guam, American Samoa, the

Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

Local service providers are the approximately 1,000 local public or private non-profit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low-income people.

Nationwide refers to the scope of the technical assistance, training, data collection, or other capacity-building projects to be undertaken with grant funds. Nationwide projects must provide for the implementation of technical assistance, training or data collection for all or a significant number of States, and the local service providers who administer CSBG funds.

Statewide refers to training, technical assistance and other capacity-building activities undertaken with grant funds and available to one or more community action agencies in a State, as needed and appropriate.

Community Services Network refers to the various organizations involved in planning and implementing programs funded through the Community Services Block Grant or providing training, technical assistance or support to them. The network includes local community action agencies, other eligible entities, State CSBG offices and their national association, CAA State, regional and national associations, and related organizations which collaborate and participate with community action agencies and other eligible entities in their efforts on behalf of low-income people.

Program technology exchange refers to the process of sharing expert technical and programmatic information, models, strategies and approaches among the various partners in the Community Services Network. This may be done through written case studies, guides, seminars, technical assistance, and other mechanisms.

Capacity-building refers to activities that assist community action agencies and programs to improve or enhance their overall or specific capability to plan, deliver, manage and evaluate programs efficiently and effectively to produce results. This may include upgrading internal financial management or computer systems, establishing new external linkages with other organizations, improving board functioning, adding or refining a program component or replicating techniques or programs piloted in another local community, or other cost effective improvements.

Part B—Purposes/Program Priority Areas

Section 674(a) (1) and (2) of the CSBG Act authorizes the Secretary of the Department of Health and Human Services to make grants, or to enter into contracts or cooperative arrangements with eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities for purposes of providing training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under the CSBG Act. Therefore, the principal purpose of this announcement is to stimulate and support the activities of planning training, technical assistance and data collection which strengthen the Community Services Network to affect results for low-income people. New and revised techniques and tools are needed to fundamentally change the way the network does business on a daily basis.

In addition to the changes in the 1994 CSBG Reauthorization Act, two other concepts which frame the technical assistance and training activities in this program announcement have converged to assist the Community Services Network in making this change: a) the Government Performance and Results Act of 1993 (Pub. L. 103-62), which requires Federal programs to determine and describe expected program outcomes; and b) the Community Services Block Grant Task Force on Monitoring and Assessment established by the Director of the OCS to develop a process to encourage the Community Services Network to manage for results. Thus, the importance of strong technical assistance, training, planning and data collection is essential to ensure a results-oriented strategy for the management and delivery of service to low-income people.

OCS is soliciting applications which implement these legislative mandates in a systematic manner on a nationwide or statewide basis, as appropriate to the Priority Area. OCS believes that identifying training and technical assistance needs requires substantial involvement of eligible entities at local, State and National levels. OCS also anticipates that the recipients of awards under this Program Announcement can be expected to implement the approved project(s) without substantial federal agency involvement and direction. Therefore, funds will be provided in the form of grants. The major Priority Areas of the Office of Community Services' Fiscal Year 1995 Training, Technical

Assistance, and Capacity-Building Program are as follows:

Priority Area 1.0: Training and Technical Assistance for the Community Services Network**Sub-Priority Areas:**

- 1.1 Training and Technical Assistance to Enhance Community Action Agencies' (CAAs') and Other Local Service Providers' Capacity;
- 1.2 T&TA to CAA State and Regional Associations;
- 1.3 Replication of Pilot Training and/or Service Delivery Projects;
- 1.4 Provision of Coordinated Peer-to-Peer TA Strategies for CAAs Experiencing Programmatic, Administrative and/or Fiscal Problems;
- 1.5 TA to Develop Collaborative Projects between CAAs and Other Organizations Serving Low-Income Veterans and Their Communities; and
- 1.6 TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems.

Priority Area 2.0: Data Collection, Analysis, Dissemination, and Utilization**Sub-Priority Areas:**

- 2.1 Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide;
- 2.2 CAAs and Technology and;
- 2.3 Community Action Network Program Technology Exchange.

Priority Area 1.0: Training and Technical Assistance for the Community Services Network

This Priority Area addresses the development and implementation of coordinated, comprehensive nationwide or, where appropriate, statewide training and/or technical assistance programs to assist State CSBG staff, staff of state and regional organizations representing eligible entities, and staff of local service providers which receive funding under the CSBG Act, to acquire the skills and knowledge needed to plan, administer, implement, monitor, and evaluate programs designed to ameliorate the causes of poverty in local communities. Programs should include the provision of training and/or technical assistance to State staff, CAA associations, and/or staff of local service providers statewide or nationwide and a description of collaboration with State CSBG staff and local service providers.

Sub-Priority Area 1.1: Training and Technical Assistance to Enhance Community Action Agencies' (CAAs) and Other Local Service Providers' Capacity

While all organizations within the Community Services Network need to

be strengthened to perform their respective functions efficiently and effectively, local service providers' performance is the ultimate measure of the effectiveness of CSBG funds. The purpose of this Sub-Priority Area is to provide funding for the development and implementation of a comprehensive nationwide training and/or technical assistance program to assist staff and boards of local service providers which receive funding under CSBG to acquire the skills and knowledge needed to administer and implement effective anti-poverty programs in their communities. This may include workshops, seminars and conferences, development and dissemination of newsletters and educational materials, individual or group technical assistance, and other proposed activities determined to be consistent with the purposes stated above. This program should be planned and conducted in cooperation with State CSBG Directors and local service providers.

Sub-Priority Area 1.2: Training and Technical Assistance to CAA State and Regional Associations

State and regional non-profit membership organizations whose memberships are comprised of eligible entities are an important technical resource and coordination vehicle for local community action agencies and other eligible entities. However, according to local and state surveys, these organizations need to be strengthened as does their capacity to effectively and efficiently facilitate the exchange of critical information among eligible entities within and among States and regions. Under this Sub-Priority Area, funds will be provided to a national, private, non-profit organization whose membership is composed of community action agencies and other eligible entities and which has the experience and expertise to develop and implement a systematic program of technical assistance on a nationwide basis. It is suggested that this technical assistance be designed to build the capacities of State and regional CAA associations so that they can provide timely, effective, state-of-the-art technical assistance to local eligible entities. Funds might also be used to assist select State and regional CAA associations to identify case studies of exemplary programs, strategies, and initiatives that effectively address issues of poverty in their States. This information could be disseminated either statewide or nationwide so the Community Services Network may learn from effective approaches and strategies utilized in other States. Facilitation of

such information exchange will help eligible entities to keep up, avoid duplication of effort, (i.e., reinventing the wheel) or advance the knowledge base by making this available so that the CAA network can learn about and adopt effective approaches to service delivery and results-oriented management.

Sub-Priority Area 1.3: Replication of Pilot Training and/or Service Delivery Projects

The purpose of this Sub-Priority Area is to further the capacity of eligible entities to deliver and manage services to low-income people. This purpose is in keeping with the guideline approach recommended by the CSBG Task Force on Monitoring and Assessment that Agencies Increase Their Capacity To Achieve Results. Many organizations in the Community Action network have initiated projects based on new and creative concepts related to training and or social services delivery which require additional resources for further development in order to be replicable on a nationwide basis by other organizations in the network. In order to hasten the utilization of these innovative training and service projects, OCS is proposing to fund a number of applications which address innovations in the areas of: capacity building; services integration; team building; family development; and self-sufficiency/family functioning projects which include scales or ladder development.

Sub-Priority Area 1.4: Provision of Coordinated Peer-to-Peer TA for CAAs Experiencing Programmatic, Administrative and/or Fiscal Problems

The purpose of this Sub-Priority Area is to fund an organization to develop and implement strategies to provide coordinated, timely peer-to-peer technical assistance and crisis aversion intervention strategies for CAAs which have identified themselves as experiencing programmatic, administrative and/or fiscal problems. Such technical assistance should be designed to prevent problems from deteriorating into crisis situations that would threaten the capacity of CAAs to provide quality services to their communities. In agreement with the chosen CAAs, this grantee will coordinate and deploy the technical assistance resources of experienced individuals within the Community Services Network and other resource experts as may be necessary to assist in the identification and resolution of problems, through necessary actions, including training, to ensure that relevant and timely assistance is

provided. Such technical assistance may be requested to assist the agency in resolving adverse program monitoring or audit findings, improving or upgrading financial management systems to prevent losses of funds, averting serious deterioration of the boards of directors, or other immediate assistance to CAAs as requested. To the extent feasible, the grantee may be expected to develop an expert technical assistance resource bank of experienced individuals from the Community Action Network who may be deployed to provide peer technical assistance.

Sub-Priority Area 1.5: Technical Assistance to Develop Collaborative Projects Between CAAs and Other Organizations Serving Low-Income Veterans and Their Communities

With the downsizing of the U.S. military, thousands of low-income veterans are returning to civilian life ill-prepared to compete in an increasingly complex, technological economy. Many of these veterans are returning to low-income communities facing industry layoffs and struggling with high poverty rates, homelessness, drugs, and violence. To address this situation, CAAs can assist low-income veterans to attain empowering roles by providing technical assistance to low-income veterans to enable them to learn new skills and to draw from their military experiences to help local communities address issues of violence and poverty. This special initiative will facilitate the transfer of knowledge and collaboration between CAAs and other organizations to improve services to low-income veterans and their communities. This priority area is particularly geared to providing technical assistance to organizations which serve low-income veterans on a nationwide basis. Applicants are encouraged to develop applications in collaboration with at least one other national private, non-profit organization which has a substantial track record in formulating strategies to improve conditions in low-income communities.

Sub-Priority Area 1.6: Technical Assistance to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems

Issues of crime, violence, drug abuse, unemployment, poverty, family breakdown, and inadequate education and training of many young people to attain productive employment in an increasingly technological labor market, threaten the safety and viability of many urban communities. These multi-faceted problems cannot be solved by CAAs alone. This project will provide

technical assistance to assist CAAs in developing and implementing collaborative community-wide strategies, effective organizational working relationships, and special initiatives among CAAs and other organization(s) focusing on issues of crime, violence, family breakdowns, drug abuse and poverty. Emphasis will be on assisting CAAs to bring together the various community, business, labor, voluntary, educational, civil rights, and governmental sectors required to develop model local strategies to improve conditions in low-income, urban communities. Applicants are encouraged to develop applications in collaboration with at least one other national private, non-profit organization which has a substantial track record in formulating strategies to improve conditions in low-income urban communities.

Priority Area 2.0: Data Collection, Analysis, Dissemination and Utilization

The purpose of this Priority Area is to fund a project to improve the collection, analysis, dissemination and utilization of data and information on CSBG activities and effective approaches to ameliorating poverty. This includes the development of a CSBG data collection instrument and collection, analysis and dissemination of information on FY 1994 CSBG Programs on a nationwide basis through a process that relies on voluntary State cooperation. The information should be comprehensive enough and disseminated in such formats as to enable State and local service providers to improve their planning, management and delivery of services and to assure that the general public has a clear understanding of those programs and their outcomes. This Priority Area also includes an assessment of the current status of the data and computer system technology of community action agencies and other partners in the Community Services Network for two specific objectives: (1) Their ability to participate in the information highway, and (2) their ability to use and disseminate data, research, and information regarding poverty issues, particularly activities and outcomes of the Community Services Network.

Sub-Priority Area 2.1: Collection, Analysis and Dissemination of Information on the CSBG Activities Nationwide

The purposes of this Sub-Priority Area are two-fold: (1) To provide accurate, reliable and comparable data from the Community Services Network nationwide; and (2) to ensure that

applicable research data regarding the conditions of poverty necessary for framing program design and organizational management are available to the Community Services Network. The first purpose will be assisted by the development or continuous improvement of a process for data collection, analysis, training, monitoring, reporting and dissemination of CSBG and CAA best practices and programs information. Coordination and collaboration of all Federal, State and local level partners within the Community Services Network are critical to the implementation of this Priority Area. The second purpose relates to the collection and dissemination of evaluation or research data. Valuable research on poverty issues provides information on the context of the conditions in which low-income people live. The CSBG Task Force on Monitoring and Assessment, in response to the CSBG legislative authority, has established a results-oriented goal to improve the conditions in which low income people live. Several performance measures have been set forth which assess incremental change in these conditions. Dissemination of research data which provides the framework for program planning and organizational improvements is critical to effective service provision. Also, some consistent track record in the collection, analysis and dissemination of CSBG and other poverty-related data is important to the effectiveness of this priority

Priority Area 2.2: CAAs' and Technology

To promote management efficiency and program productivity, it is essential that local CAAs and other partners in the Community Services Network participate in new and appropriate

information systems technologies. The purpose of this Sub-Priority Area is to fund a comprehensive assessment of the computer technology capability of state CSBG offices and eligible entities to participate in the Information Super Highway. This assessment is needed to determine future hardware, software, training and development needs of the Community Services Network. This project also will entail funding for the development of a training and technical assistance capacity to enable the Community Services Network to replicate currently piloted computer-based, multi-media, community workstation projects and to build an in-house capacity to provide technical assistance and training to additional CAAs to participate in integrated service delivery networks. Collaboration on the national level is an essential ingredient to the objective of this priority.

Sub-Priority Area 2.3: Community Services Network Program Technology Exchange

Many CAAs and other eligible entities have developed effective model programs or techniques which address various aspects of poverty. These models/techniques need to be shared more broadly within the Community Services Network and with other sectors of the community so other organizations may learn from and adapt these successful program models. This project will provide funds to State CSBG offices, CAA State or regional associations, or CAAs or other eligible entities for projects which would transfer program technology in specific areas of expertise to other organizations. These areas may include economic development, community development, youth violence prevention and conflict resolution, partnerships for resources, education and training, technical

advances, and other areas. Activities to exchange information and program technology may include development and dissemination of case studies or best practices, how-to guides and other publications, workshops and seminars, training and technical assistance, etc. Eligible applicants are eligible entities, organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities. See Part F, Section 4, for special instructions on developing a work program. Applicants must be able to demonstrate that the projects and program models they wish to share are effective and produce results.

Part C—Application Prerequisites

1. Eligible Applicants

In general, eligible applicants under the various Priority Areas in this Program Announcement are restricted to "eligible entities" as defined in Section A or organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities for purposes of providing training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under the CSBG Act.

2. Availability of Funds

The total amount of funds available for grant awards under this Program Announcement in FY 95 is \$3,675,000; amounts available and numbers of grants under each Sub-Priority Area stated in Part B are as follows:

Sub-Priority Area	Grant amounts	Estimated No. of grants
1.1 T&TA to Enhance CAAs' and Other Service Providers' Capacity	300,000	1
1.2 T&TA to CAA State and Regional Associations	1,000,000	1
1.3 Replication of Pilot Training and/or Service Delivery Projects	1,000,000	1-4
1.4 Provision of Coordinated Peer-to-Peer TA Strategies for CAAs Experiencing Programmatic, Administrative and/or Fiscal Problems.	75,000	1
1.5 TA to Develop Collaborative Projects between CAAs and Other Organizations Serving Low-Income Veterans and Their Communities.	100,000	1
1.6 TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems	100,000	1
2.1 Collection, Analysis, and Dissemination of Information on the CSBG Activities Nationwide	250,000	1
2.2 CAAs and Technology	550,000	1
2.3 Community Action Network Program Technology Exchange	300,000	Up to 12.
TOTAL	\$3,675,000	Up to 23.

Grant amounts under priority 1.3 will be up to \$300,000; Grant amounts under priority 2.3 will not exceed \$25,000.

3. Project and Budget Periods

For most projects, the Office of Community Services (OCS) will grant funds for 12-months project. However, in rare instances, depending on the characteristics of any individual project and on the justification presented by the applicant in its application, a grant may be made for a period of up to 17 months. The application must clearly demonstrate that the project work plan will achieve measurable results and can be successfully completed within the stated project period.

4. Project Beneficiaries

The overall intended beneficiaries of the projects to be funded under this Program Announcement are the various "partners" in the Community Services Network. Specific beneficiaries are indicated under each Sub-Priority Area in Part B. It is the intent of OCS, through funding provided under this Program Announcement, to significantly strengthen the capacity of State and regional CAA associations to provide technical assistance and support to local service providers; to strengthen the capacity of State CSBG offices to collect and disseminate accurate and reliable data and to provide support for local service providers; and to enhance the capacities of local service providers themselves. The ultimate beneficiaries of improved program management, data and information collection and dissemination, and service quality of local service providers are low-income individuals, families, and communities.

5. Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project. However, the applicant must have a substantive role in the implementation of the project for which funding is requested.

6. Number of Projects in Application

Separate applications must be made for each Sub-Priority Area. The Sub-Priority Area must be clearly identified by title and number.

7. Project Evaluations

Each application must include an assessment/self evaluation to determine the degree to which the goals and objectives of the project are met.

Part D—Application Procedures

1. Availability of Forms

Attachments A, B and C contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for use in developing the application.

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this announcement. A copy is also available on the OCS Electronic Bulletin Board. (See **FOR FURTHER INFORMATION** section.) For purposes of this announcement, all applicants will use SF-424, SF-424A, and SF-424B, Attachments A, B, and C. Instructions for completing the SF-424, SF-424A, and SF-424B are found in Part F of this announcement.

Part F also contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF-424 and related forms.

Attachment I provides a checklist to aid applicants in preparing a complete application package for OCS.

2. Application Submission

Refer to the section entitled Closing Date at the beginning of this Program Announcement for the last day on which applications should be submitted. To be considered as meeting the deadline, applications must be received before 6:30 p.m. EDST on the deadline date at the ACF Office of Financial Management, Division of Discretionary Grants, 6th Floor OFM/DDG, 370 L'Enfant Promenade, S.W., Washington, D.C. 20047. Applications may be mailed to: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, OCS-95-09, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447

Hand-delivered applications are accepted during normal working hours of 8:00 a.m. to 6:30 p.m., Monday through Friday, except legal holidays, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, OCS-95-09, Sixth Floor, ACF Guard Station, 901 D street, S.W., Washington, D.C. 20447

Applications which are not physically received on or before the closing date are considered late applications. The

ACF Division of Discretionary Grants will notify each late applicant that its application will not be considered in this competition.

The ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is a disruption of the mails. However, if the ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

Applications, once submitted, are considered final and no additional materials will be accepted.

One signed original application and one copy should be submitted.

3. Intergovernmental Review

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nineteen jurisdictions need take no action regarding E.O. 12372.

Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions, so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. These comments are reviewed as a part of the award process. Failure to notify the SPOC can result in a delay in grant award.

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 they intend to trigger the accommodate or explain rule under 45 CFR 100.10.

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, OCS-95-09, 6th Floor, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G to this announcement.

4. Application Consideration

Applications which meet the screening requirements in Sections 5a and 5b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past 5 years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

a. Initial Screening

All applicants will receive an acknowledgement with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent

communications concerning the application. If an acknowledgement is not received within two weeks after the deadline date, please notify ACF by telephone at (202) 401-9365. All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 Application for Federal Assistance (SF-424), a budget (SF-424A), and signed Assurances (SF-424B) completed according to instructions published in Part F and Attachments A, B, and C of this program announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff to verify, prior to the programmatic review, that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility*: Applicant meets the eligibility requirements found in Part B. Applicant also must be aware that the applicant's legal name as required on the SF 424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Duration of Project*: The application contains a project that can be successfully implemented in the project period.

(3) *Target Populations*: The application clearly targets the specific outcomes and benefits of the project to State staff administering CSBG funds, CAA state or regional associations, and/or local providers of CSBG-funded services and activities. Benefits to low-income consumers of CSBG services also must be identified.

(4) *Program Focus*: The application must address development and implementation of nationwide or statewide comprehensive activities as described in Part B of this document for each Priority Area. While some technical assistance activities will focus on individual eligible entities, the applicant must be able to develop a system to offer such services on a

nationwide or statewide basis to many eligible entities.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in Part B.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

(1) Criterion I: Need for Assistance (Maximum: 20 points)

(a) The application documents that the project addresses vital needs related to the purposes stated under Sub-Priority Areas discussed in this Program Announcement (Part B) and provides statistics and other data and information in support of its contention. (0-10 points).

(b) The application provides current supporting documentation or other testimonies regarding needs from State CSBG Directors, local service providers and/or State and Regional organizations of local service providers. (0-10 points)

(2) Criterion II: Work Program (Maximum: 30 points)

(a) Goals are appropriately related to needs and are specific and measurable. (0-10 points)

(b) Activities are comprehensive and statewide or nationwide in scope depending on Sub-Priority Area, and adequately described and appropriately related to goals. (0-10 points)

(c) Time frames and chronology of key activities are realistic. (0-2 points)

(d) The plan for conducting an assessment/self evaluation that will determine the degree to which the stated goals and objectives of the project are achieved is adequate and workable and/or the plan for disseminating the information resulting from the project to CSBG grantees, local service providers, and other interested parties is workable and assures that all relevant parties are included in the dissemination. (0-8 points)

(3) Criterion III: Significant and Beneficial Impact (Maximum 15 points)

Applicant adequately describes how the project will assure long-term program and management improvements for State CSBG offices, CAA state associations, and/or local providers of CSBG services and activities.

(4) Criterion IV: Evidence of Significant Collaborations (Maximum 10 Points)

A new performance-based paradigm is replacing a compliance-based approach to managing CSBG programs. Under this new approach, development and strengthening of collaborative working relationships among all eligible entities in the Community Services Network and with other related organizations is emphasized. OCS does not believe that the Priority Areas in this Program Announcement can be effectively carried out without collaboration and cooperation. Thus, cooperation and collaboration within the Community Services Network and with other organizations relevant to the Priority Area must be documented in the application.

(5) Criterion V: Ability of Applicant to Perform (Maximum: 20 points)

(a) The application demonstrates that the applicant has experience and a successful track record relevant to the activities that it proposes to undertake. (0-10 points)

(b) The applicant's proposed project director and primary staff are well qualified and their professional experiences are relevant to the successful implementation of the proposed project. (0-10 points)

(6) Criterion VI: Adequacy of Budget (Maximum: 5 points)

(a) The resources requested are reasonable and adequate to accomplish the project. (0-3 points)

(b) Total costs are reasonable and consistent with anticipated results. (0-2 points)

Part E—Contents of Application and Receipt Process**1. Contents of Application**

Each application should include one original and one additional copy of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that, in signing and submitting the application for this award, it is certifying that it will comply with the

Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

b. Budget Information—Non-Construction Programs (SF-424A).

c. A filled out, signed and dated Assurances—Non-Construction Programs (SF-424B), Attachment C.

d. Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and data form found at Attachment F.

e. Certification Regarding Environmental Tobacco Smoke found at Attachment—sets forth the Federal certification requirement. The applicant is certifying that it will comply by signing and submitting the SF-424.

f. Disclosure of Lobbying Activities, SF-LLL: fill out, sign and date form found at Attachment F, as appropriate.

g. A Project Abstract describing the proposal in 200 characters or less.

h. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

(i) Need for Assistance
(ii) Work Program
(iii) Significant and Beneficial Impact
(iv) Evidence of Significant Collaborations

(v) Ability of Applicant to Perform
(vi) Appendices including proof of non-profit status, such as IRS determination of non-profit status, where applicable; relevant sections of By-Laws, Articles of Incorporation, and/or statement from appropriate State CSBG office which confirms eligibility; Certification Regarding Anti-Lobbying Activities; resumes; Single Point of Contact Comments, where applicable; and any partnership/collaboration agreements etc.

The original must bear the signature of the authorizing official representing the applicant organization. The total number of pages for the entire application package should not exceed 30 pages, including appendices. Pages should be numbered sequentially throughout. If appendices include photocopied materials, they must be legible. Applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications or applications enclosed in a binder is specifically discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must

be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included.

Part F—Instructions for Completing Application Package

(Approved by the OMB under Control Number 0970-0062) The standard forms attached to this Announcement shall be used when submitting applications for all funds under this Announcement.

It is recommended that the applicant reproduce the SF-424 (Attachment A), SF-424A (Attachment B), SF-424B (Attachment C) and that the application be typed on the copies. If an item on the SF-424 cannot be answered or does not appear to be related or relevant to the assistance requested, the applicant should write NA for Not Applicable.

The application should be prepared in accordance with the standard instructions in Attachments A and B corresponding to the forms, as well as the specific instructions set forth below:

1. SF-424 Application for Federal Assistance Item

1. For the purposes of this Program Announcement, all projects are considered Applications; there are no Pre-Applications.

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter N in the box and specify non-profit corporation in the space marked Other. Proof of non-profit status such as IRS determination, Articles of Incorporation, or by-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are New.

9. Enter DHHS—ACF/OCS.

10. The Catalog of Federal Domestic Assistance number for the OCS program covered under this announcement is 93.032.

11. In addition to a brief descriptive title of the project, the following Priority Area designations must be used to indicate the Priority and Sub-Priority

Areas for which funds are being requested:

CB—Sub-Priority 1.1—T&TA to Enhance CAA and Other Local Service Providers' Capacity;

CR—Sub-Priority 1.2—T&TA to CAA State and Regional Associations;

PT—Sub-Priority 1.3—Replication of Pilot Training and/or Service Delivery Projects;

PP—Sub-Priority 1.4—Provision of Coordinated Peer-to-Peer TA for CAAs Experiencing Programmatic,

Administrative and/or Fiscal Problems;

VT—Sub-Priority 1.5—TA to Develop Collaborative Projects between CAAs and Other Organizations Serving Low-Income Veterans and their Communities; and

UI—Sub-Priority 1.6—TA to Develop Special Initiatives Between CAAs and Organization Addressing Urban Problems;

IS—Sub-Priority 2.1—Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide;

CT—Sub-Priority 2.2—CAAs' Computer Technology; and

NT—Sub-Priority 2.3—Community Action Network Program Technology Exchange.

The title is Office of Community Services' Discretionary CSBG Awards—Fiscal Year 1995 Training, Technical Assistance, and Capacity-Building Program.

15a. For purposes of this announcement, this amount should reflect the amount requested for the entire project period.

15b–e. These items should reflect both cash and third party in-kind contributions for the total project period.

2. SF-424A—Budget Information-Non-Construction Programs

See instructions accompanying this page as well as the instructions set forth below:

In completing these sections, the Federal Funds budget entries will relate to the requested OCS Training and Technical Assistance Program funds only, and Non-Federal will include mobilized funds from all other sources—applicants, State, and other. Federal funds, other than those requested from the Training and Technical Assistance Program, should be included in Non-Federal entries.

Sections A and D of SF-424A must contain entries for both Federal (OCS) and non-Federal (mobilized funds).

Section A—Budget Summary

Line 1–4
Col. (a):

Line 1 Enter OCS Training and Technical Assistance Program;

Col. (b):

Line 1 Enter 93.032.

Col. (c) and (d): Not Applicable

Col. (e)–(g):

For each line 1–4, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the entire project period.

Line 5 Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period of 12 months will be entered in Column #1. Allowability of costs is governed by applicable cost principles set forth in 45 CFR Parts 74 and 92.

A separate itemized budget justification should be included to explain fully and justify major items, as indicated below. The budget justification should immediately follow the Table of Contents.

Column 5: Enter total requirements for Federal funds by the Object Class Categories of this section.

Line 6a—Personnel: Enter the total costs of salaries and wages.

Justification

Identify the project director. 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.

Line 6b—Fringe Benefits: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification

Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Line 6c—Travel: Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification

Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances.

Line 6d—Equipment: Enter the total costs of all non-expendable personal property to be acquired by the project. Equipment means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

Justification

Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already 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.

Line 6e—Supplies: Enter the total costs of all tangible personal property (surplus) other than that included on line 6d.

Line 6h—Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, 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.

Line 6j—Indirect Charges: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. With the exception of States and local governments, applicants should enclose a copy of the current approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. For an educational institution the indirect costs on training grants will be allowed at the lesser of the institution's actual indirect costs or 8 percent of the total direct costs.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates*, and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot be also budgeted or charged as direct costs to the grant.

The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Line 7—Program Income: Enter the estimated amount of income, if any,

expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Justification

Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of Non-Federal resources that will be used to support the project. Non-Federal resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category (See Section B.6), and whether it is cash or third-party in-kind. The firm commitment of these required funds must be documented and submitted with the application.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8—

Col. (a): Enter the project title.

Col. (b): Enter the amount of cash or donations to be made by the applicant.

Col. (c): Enter the State contribution.

Col. (d): Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Col. (e): Enter the total of columns (b), (c), and (d). Lines 9, 10, and 11 should be left blank.

Line 12—Carry the total of each column of Line 8, (b) through (e).

The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification

Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first 12 month budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of Lines 13 and 14.

Section F—Other Budget Information

Line 21—Include narrative justification required under Section B for each object class category for the total project period.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF-424B Assurances Non-Construction

All applicants must sign and return the Assurances found at Attachment C with their application.

4. Project Narrative

Each narrative section of the application must address one or more of the focus areas described in Part B and follow the format outlined below.

- a. Need for Assistance
- b. Work Program
- c. Significant and Beneficial Impact
- d. Evidence of Significant Collaborations
- e. Ability of the Applicant to Perform

a. *Need for Assistance.* The application should identify the problem area(s) in which State organizations receiving CSBG funds and/or local service providers which receive CSBG funds as subgrantees from States are seeking assistance and how those needs were identified. Applicants also should provide current supporting documentation or other testimonies from *State* CSBG Directors and *local* service providers or State and Regional organizations of local service providers, as appropriate, regarding need for the proposed project.

b. *Work Program.* The application must contain a detailed and specific work program that is both sound and feasible. Applicants must address how the proposed project will carry out the legislative mandate and the program activities found in Part B. This section of the narrative must include the goals of the project related to the needs, the activities that they propose to carry out to address those goals, the methods by which they will carry out those activities, and the plan for

disseminating products resulting from the project, where appropriate. Project activities must be described in a quantitative manner, e.g. number of training days, number of workshops, number of persons to be trained, number of local services providers to be impacted, materials to be developed, etc. The applicant must define the comprehensive nature of the proposed project and the methods which will be used to ensure that it is a nationwide project.

For data collection projects, applicants should, at a minimum, describe the methodology to be used to identify the kind of data to be collected, how the data will be collected, how the applicant will assure that the appropriate data will be collected, a plan for data analysis, the methods by which the data will be disseminated and the audiences, and a plan for conducting an assessment of the usefulness of data collected.

The application must (1) Set forth realistic quarterly time targets by which the various work tasks will be completed; (2) include a plan for conducting an assessment of its activities as they relate to the goals and objectives; and (3) include a description of how the applicant will involve other appropriate organizations in the planning or implementation of the project in order to avoid duplication of effort and to leverage additional resources.

c. *Significant and Beneficial Impact.* Each applicant must indicate how the project will have a significant and beneficial impact. At a minimum the applicant must provide (1) A description of how the project will result in long-term improvements for the State organization receiving CSBG funds and/or local providers who receive CSBG as subgrantees of the State and (2) the types and amounts of public and/or private resources it will mobilize and how those resources will directly benefit the project, and (3) how the project will ultimately benefit low-income individuals and families. An applicant proposing a project with a training and technical assistance focus also must indicate the number of organizations and/or staff it will impact. An applicant proposing a project with a data collection focus also must provide a description of the mechanism the applicant will use to collect data, how it can assure collections from a significant number of states, and how many states will be willing to submit data to the applicant. An applicant proposing to develop the symposium series or other policy-related projects must identify the number and types of

beneficiaries. Methods of securing participant feedback and evaluations of activities must be described for all Priority Areas.

d. *Evidence of Significant Collaboration(s)*. Applicants must describe how they will involve the partners in the Community Services Network in their activities. Where appropriate, applicants also must describe how they will interface with other related organizations. If subcontracts are proposed, documentation of the willingness and capacity of the subcontracting organization(s) to participate must be described.

e. *Ability of Applicant to Perform*. Organizations must detail their competence in the specific program area. Documentation must be provided which addresses (1) accomplishments relevant to the proposed project, and (2) experience relevant to the CSBG program.

Organizations which propose providing training and technical assistance must detail their competence in the specific program Priority Area and as a deliverer with expertise in the fields of training and technical assistance on a nationwide basis. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

f. *Staffing and Resources*. The application must fully describe (e.g. a resume) the experience and skills of the proposed project director and primary staff showing that the individuals are not only well-qualified but that their professional capabilities are relevant to the successful implementation of the proposed project.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to

draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

In addition to the standard terms and conditions which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A-122 and A-87.

Grantees will be required to submit quarterly progress and financial reports (SF-269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A-128 and A-133.

Section 319 of Public Law 101-121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantee will pay with profits or

nonappropriated funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachment F for certification and disclosure forms to be submitted with the applications for this program.

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 States or local governmental by Federal grant, contract, loan or loan guarantee. The law does not apply to children's services, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for in-patient 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 requirement 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.

Attachment H indicates the regulations which apply to all applicants/grantees under this program.

Dated: June 16, 1995.

Donald Sykes,

Director, Office of Community Services.

BILLING CODE 4184-01-P

Attachment A
**APPLICATION FOR
 FEDERAL ASSISTANCE**

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Preapplication <input type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED	Applicant Identifier																																																																								
3. DATE RECEIVED BY STATE		State Application Identifier																																																																									
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier																																																																									
5. APPLICANT INFORMATION																																																																											
Legal Name:		Organizational Unit:																																																																									
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)																																																																									
6. EMPLOYER IDENTIFICATION NUMBER (EIN): [] [] - [] [] [] [] [] [] [] []		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> <ul style="list-style-type: none"> 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: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY:																																																																									
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: [] [] - [] [] [] [] [] [] TITLE:		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																																																																									
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):		13. PROPOSED PROJECT: Start Date Ending Date																																																																									
14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project		15. ESTIMATED FUNDING: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">a. Federal</td> <td style="width:10%;">\$</td> <td style="width:10%;"></td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>f. Program income</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		a. Federal	\$									b. Applicant	\$									c. State	\$									d. Local	\$									e. Other	\$									f. Program income	\$									g. TOTAL	\$									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. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$																																																																										
b. Applicant	\$																																																																										
c. State	\$																																																																										
d. Local	\$																																																																										
e. Other	\$																																																																										
f. Program income	\$																																																																										
g. TOTAL	\$																																																																										
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> 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																																																																									
d. Signature of Authorized Representative		c. Telephone number																																																																									
e. Date Signed		f.																																																																									

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
 Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.
2. Date application submitted by 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 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

Attachment B

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B — BUDGET CATEGORIES						
Object Class Categories	(1)	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
		(2)	(3)	(4)	(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	\$	\$	\$	\$	\$	\$

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

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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	FUTURE FUNDING PERIODS (Years)			
		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		

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INSTRUCTIONS FOR THE SF-424A**General Instructions**

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary**Lines 1-4, Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g).

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed of 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 for this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and sources 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 the made from the 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 funds 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 total 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.

Attachment C—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to, and the right to examine, all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Health Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 *et seq.*); (g) protection of underground sources

of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic River Act of 1968 (16 U.S.C. 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Applicant organization

Title

Date submitted

BILLING CODE 4184-01-P

Attachment D

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 take 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 E—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 belief 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 F—Certification Regarding Anti-Lobbying Provisions

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.

Statement for Loan Guarantees 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
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:</p> <p>Congressional District, if known:</p>		<p>5. If Reporting Entity in No. 4 is Subawardee. Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p>		<p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</p>
<p><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p>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:</p> <p><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>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.</p>		<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>
<p>Federal Use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

Certification Regarding Environmental Tobacco Smoke

Public Law 103-227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private 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 \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment G—Executive Order 12372—State Single Points of Contact*Arizona*

Mrs. Janice Dunn, ATTN: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682-1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736-3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, DC 20005, Telephone (202) 727-6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656-3855

Illinois

Steve Klokenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782-1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564-2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373-7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960-2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687-4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640, FAX (505) 827-3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603-8003, Telephone (919) 733-7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505-0170, Telephone (701) 224-2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266-0411, Telephone (614) 466-0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2656
Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734-0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier

Building, Nashville, Tennessee 37219,
Telephone (615) 741-1676

Texas

Mr. Thomas Adams, Governor's Office of
Budget and Planning, P.O. Box 12428,
Austin, Texas 78711, Telephone (512) 463-
1778

Utah

Utah State Clearinghouse, Office of Planning
and Budget, ATTN: Carolyn Wright, Room
116 State Capitol, Salt Lake City, Utah
84114, Telephone (801) 538-1535

Vermont

Mr. Bernard D. Johnson, Assistant Director,
Office of Policy Research & Coordination,
Pavilion Office Building, 109 State Street,
Montpelier, Vermont 05602, Telephone
(802) 828-3326

West Virginia

Mr. Fred Cutlip, Director, Community
Development Division, West Virginia
Development Office, Building #6, Room
553, Charleston, West Virginia 25305,
Telephone (304) 348-4010

Wisconsin

Mr. William C. Carey, Federal/State
Relations, Wisconsin Department of
Administration, 101 South Webster Street,
P.O. Box 7864, Madison, Wisconsin 53707,
Telephone (608) 266-0267

Wyoming

Sheryl Jeffries, State Single Point of Contact,
Herschler Building, 4th Floor, East Wing,
Cheyenne, Wyoming 82002, Telephone
(307) 777-7574

Guam

Mr. Michael J. Reidy, Director, Bureau of
Budget and Management Research, Office
of the Governor, P.O. Box 2950, Agana,
Guam 96910, Telephone (671) 472-2285

Northern Mariana Islands

State Single Point of Contact, Planning and
Budget Office, Office of the Governor,
Saipan, CM, Northern Mariana Islands
96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/
Director, Puerto Rico Planning Board,
Minillas Government Center, P.O. Box
41119, San Juan, Puerto Rico 00940-9985,
Telephone (809) 727-4444

Virgin Islands

Jose L. George, Director, Office of
Management and Budget, #41 Norregade
Emancipation Garden Station, Second
Floor, Saint Thomas, Virgin Islands 00802
Please direct correspondence to: Linda
Clarke, Telephone (809) 774-0750.

Attachment H, DHHS Regulations Applicable to Grants

The following DHHS regulations apply to
all applicants/grantees under the Training
and Technical Assistance Program

Title 45 of the Code of Federal Regulations:

Part 16—Procedures of the Departmental
Grant Appeals Board

Part 74—Administration of Grants (non-
governmental)

Part 74—Administration of Grants (state and
local governments and Indian Tribal
affiliates):

Sections 74.62(a) Non-Federal Audits

74.173 Hospitals

74.174(b) Other Non-profit Organizations

74.304 Final Decisions in Disputes

74.710 Real Property, Equipment and
Supplies

74.715 General Program Income

Part 75—Informal Grant Appeal Procedures

Part 76—Debarment and Suspension form

Eligibility for Financial Assistance

Subpart—Drug Free Workplace Requirements

Part 80—Non-discrimination Under

Programs Receiving Federal Assistance
through the Department of Health and
Human Services

Effectuation of Title VI of the Civil Rights Act
of 1964

Part 81—Practice and Procedures for

Hearings Under Part 80 of this Title

Part 84—Non-discrimination on the Basis of
Handicap in Programs

Part 86—Nondiscrimination on the basis of
sex in the admission of individuals to
training programs

Part 91—Non-discrimination on the Basis of
Age in Health and Human Services
Programs or Activities Receiving Federal
Financial Assistance

Part 92—Uniform Administrative
Requirements for Grants and Cooperative
Agreements to States and Local
Governments (*Federal Register*, March 11,
1988)

Part 93—New Restrictions on Lobbying

Part 100—Intergovernmental Review of
Department of Health and Human Services
Programs and Activities

Attachment I, Checklist for Use in Submitting OCS Grant Applications (Optical)

The application should contain:
1. A completed, *signed* SF-424,
"Application for Federal Assistance". The
letter and number code for the Sub-Priority
Areas, located in Part B of this Program
Announcement should be in the lower right-
hand corner of the page;

2. A completed "Budget Information-Non-
Construction" Form (SF-424A);

3. A *signed* "Assurances-Non-
Construction" Form (SF-424A);

4. A Project Abstract describing the
proposal in 200 words or less;

5. A Project Narrative beginning with a
Table of Contents that describes the project
in the following order:

- (a) Need for Assistance
- (b) Work Program
- (c) Significant and Beneficial Impact
- (e) Evidence of Significant Collaboration
- (f) Ability of Applicant to Perform

6. Appendices including proof of non-
profit status, Single Points of Contact
comments (where applicable), resumes;

7. A *signed* copy of "Certification
Regarding Anti-Lobbying Activities";

8. A completed "Disclosures of Lobbying
Activities", if appropriate; and

9. A self-addressed mailing label which
can be affixed to a postcard to acknowledge
receipt of application.

The applicant should not exceed a total of
30 pages. It should include one original and
four identical copies, printed on white 8½ by
11 inch paper, two hole punched at the top
center and fastened separately with a
compressor slide paper fastener or a binder
clip.

The applicant must be aware that in
signing and submitting the application for
this award, it is certifying that it will comply
with the Federal requirements concerning the
drug-free workplace and debarment
regulations set forth in Attachments D and E.
[FR Doc. 95-15325 Filed 6-21-95; 8:45 am]

BILLING CODE 4184-01-P

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that
the Office of Research Integrity (ORI)
has made final findings of scientific
misconduct in the following case:

*Gloria Clayton, R.N., Ed.D., Medical
College of Georgia:* The Division of
Research Investigations (DRI) of the
Office of Research Integrity (ORI)
reviewed an investigation report,
forwarded by the Medical College of
Georgia, into possible scientific
misconduct on the part of Gloria
Clayton, R.N., Ed.D., Professor of Adult
Nursing at the Medical College of
Georgia. ORI found that Dr. Clayton
fabricated the existence of subjects and
associated data under a subcontract
with the Gerontology Center at the
University of Georgia for research
entitled "Adaptation and Mental Health
of the Oldest Old," supported by the
National Institute of Mental Health. Dr.
Clayton, who has admitted this
fabrication, has accepted the ORI
findings and agreed to a Voluntary
Exclusion Agreement. Under the
Agreement, Dr. Clayton is not eligible to
apply for or receive any Federal grant or
contract funds or to serve on any Public
Health Service Advisory Committee,
Board or peer review committee for a
three-year period beginning May 25,
1995. In addition, Dr. Clayton has
agreed to cooperate with the University
of Georgia and the Medical College of
Georgia in the submission of letters of
correction to appropriate journals for
publications shown to contain the
fabricated data.

FOR FURTHER INFORMATION, CONTACT:
Director, Division of Research

Investigations, Office of Research Integrity, 301-443-5330.

Lyle W. Bivens, Director,

Office of Research Integrity.

[FR Doc. 95-15238 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-17-P

Public Health Service

Centers for Disease Control and Prevention Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 59 FR 62406-62407, dated December 5, 1994) is amended to reflect the transfer of quarantine activities within the Centers for Disease Control and Prevention (CDC) from the National Center for Prevention Services (NCPS) to the National Center for Infectious Diseases (NCID).

Revise the functional statement for the National Center for Prevention Services (HCM) as follows:

Delete item (8) in its entirety and renumber the remaining items accordingly.

Following the functional statement for the Division of STD/HIV Prevention (HCM4), delete in its entirety the title and functional statement for the Division of Quarantine (HCM5).

Following the functional statement for the Office of Program Resources (HCR14), National Center for Infectious Diseases (HCR), insert the following:

Division of Quarantine (HCR2). (1) Administers a national quarantine program to protect the United States against the introduction of diseases from foreign countries; (2) administers an overseas program for the medical examination of immigrants and others with excludable health conditions that would impose an economic burden on public health and hospital facilities; (3) maintains liaison with and provides information on quarantine matters to other Federal agencies, State, and local health departments, and interested industries; (4) provides liaison with international health organizations, such as the Pan American Health Organization and the World Health Organization, and participates in the development of international agreements affecting quarantine; (5) conducts studies to provide new information about health hazards

abroad, measures for their prevention, and the potential threat of disease introduction into the United States; and (6) provides logistic support to other programs of the Centers for Disease Control and Prevention in the distribution of requested biologicals.

Office of the Director (HCR21). (1) Manages, directs, and coordinates the activities of the Division; (2) provides leadership in development of Division policy, program planning, implementation, and evaluation; (3) identifies needs and resources for new initiatives and assigns responsibilities for their development; (4) coordinates liaison with other Federal agencies, State, and local health departments, and interested industries; (5) coordinates liaison with international health organizations; (6) provides administrative, fiscal management, information, and computer support and data management services to the Division.

Program Operations Branch (HCR22). (1) Develops, reviews, and evaluates operations in the United States and abroad involving inspection of persons, conveyances, airports, seaports, and importations; (2) conducts a continuing review of operations to assure the most effective application of epidemiologic data on quarantinable and specified other disease prevalences; (3) reviews and evaluates field inspectional operations, plans and develops staffing studies and procedures, and launches new programs and refocuses activities as necessary; (4) provides training and general supervision of field staff in the technical, management, and administrative facets of quarantine operations; (5) works cooperatively and in concert with other Federal agencies at home and abroad in connection with improving and implementing new inspectional activities at ports of entry; (6) provides coordination and liaison with State and local health departments in all activities affecting the possible transmission and spread of quarantinable diseases; (7) coordinates and provides immunization data and advice on health precautions for international travel, and develops and issues vaccination documents and validation stamps in accordance with the International Health Regulations.

Travelers' Health Section (HCR222). (1) Directs and coordinates the collection, analysis, and dissemination of data on worldwide quarantinable and other communicable diseases; (2) develops, implements, and maintains systems to provide immunization data and advice on health precautions for international travel; (3) develops and issues vaccination documents and

validation stamps in accordance with the International Health Regulations; (4) notifies the World Health Organization of the incidence of quarantinable diseases in the United States as required by the International Health Regulations; (5) maintains liaison with State and local health authorities, the travel industry, the World Health Organization, and other interested organizations.

Quarantine Section (HCR223). (1) Performs quarantine inspections and medical inspections of aliens through staff at quarantine stations located at major ports of entry; (2) provides logistic support to other programs of the Centers for Disease Control and Prevention in the distribution of requested biologicals; (3) initiates surveillance and other health control measures at sea, air, and land ports of entry to the United States and its possessions.

Medical Screening and Health Assessment Branch (HCR23). (1) Develops, reviews, and evaluates operations in the United States and abroad involving the administration of alien medical examination activities; (2) conducts a continuing review of medical screening procedures to assure the most effective application of current medical practices; (3) plans and develops staffing studies and procedures, and launches new programs and refocuses activities as necessary; (4) provides training to field staff and general supervision of field staff assigned to the Branch in the technical, managerial, and administrative facets of alien medical examination operations; (5) works cooperatively and in concert with other Federal and international agencies, voluntary agencies, and foreign governments, both in the United States and abroad, in efficiently administering the alien medical screening program; (6) provides coordination and liaison with State and local health departments on the followup of aliens with serious disease and mental problems; (7) administers a grant program to assist States in carrying out health assessments of refugees.

Medical Screening Section (HCR232). (1) Administers and monitors activities related to the overseas and domestic medical examinations of aliens, including preparation, publication, and distribution of manuals for examining physicians; (2) establishes and maintains procedures to process requests for waivers of excludable medical conditions; (3) establishes, maintains, and evaluates alien medical inspection and notification procedures at ports-of-entry; (4) provides training and general supervision of field staff

assigned to the Section; (5) convenes boards of medical officers to reexamine aliens, when necessary.

Health Assessment Section (HCR233).

(1) Administers a grant program for the health assessment of refugees, including the development, publication, and distribution of manuals for examining physicians, public health personnel, and others involved in refugee resettlement; (2) reviews and evaluates the efficiency and effectiveness of domestic followup of notifiable diseases and conditions for aliens with tuberculosis or Hansen's disease, and aliens requiring evaluation for mental conditions; (3) provides training and general supervision of field staff assigned to the Section; (4) coordinates activities related to followup with State and local health departments.

Effective Date: June 7, 1995.

Donna E. Shalala,
Secretary.

[FR Doc. 95-15245 Filed 6-21-95; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-95-3855; FR-3843-N-02]

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 13, 1995.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development Work Study Program (FR-3843)

Office: Policy Development and Research

Description of the Need for the Information and its Proposed Use: The data is essential to help assure that the grantee institutions monitor and guide funded students and their work placement agencies. The information will be used to make sure that students progress academically and develop their professional career potential in community development or a related field.

Form Number: None.

Respondents: Not-For-Profit Institutions and State, and Local, or Tribal Government.

Reporting Burden:

	Number of re- spondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	75		1		20		1,500
Quarterly/Semester	30		1		6		180
Final Report	30		1		8		240
Recordkeeping	30		1		5		150

Total Estimated Burden Hours: 2,070.
Status: New.

Contact: John J. Hartung, HUD, (202) 708-1537; Joseph F. Lackey, Jr., OMB, (202) 395-7316.

Dated: June 13, 1995.

[FR Doc. 95-15248 Filed 6-21-95; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. FR-3917-N-03]

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 13, 1995.

David S. Cristy,
Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Personal Financial and Credit Statement.

Office: Housing

Description of the Need for the Information and its Proposed Use: The information is submitted with the initial application for mortgage insurance of a project. The form is used by HUD to determine whether the sponsor will be able to develop a successful project and have the resources to complete the project.

Form Number: HUD-92417.

Respondents: Individuals or Households and the Federal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-92417	8,000		1		8		64,000

Total Estimated Burden Hours: 64,000.

Status: Extension, no changes.

Contact: Wendy Carter, HUD, (202) 708-0283, Joseph F. Lackey, Jr., OMB, (202) 395-7316.

Dated: June 13, 1995.

[FR Doc. 95-15249 Filed 6-21-95; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. FR-3917-N-02]

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 13, 1995.

David S. Cristy,
Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: PHA-Owned or Leased Projects; Maintenance and Operation; Tenant Allowances for Utilities.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: Housing Authorities (HAs) are required to maintain records on criteria and procedures used in establishing tenant allowances for utilities. HUD requires HAs to maintain records to document how allowances were determined to reflect reasonable utilities amounts for tenants.

Form Number: None.

Respondents: State, Local or Tribal Government and Not-For-Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Recordkeeping	3,400		1		4		13,600

Status: Extension with changes.

Contact: William C. Thorson, HUD, (202) 708-4703; Joseph F. Lackey, Jr., OMB, (202) 395-7316.

Dated: June 13, 1995.

[FR Doc. 95-15250 Filed 6-21-95; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU-69635]

Notice of Coal Lease Offering by Sealed Bid

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: Notice is hereby given that certain coal resources in lands hereinafter described in Carbon County, Utah, will be offered by competitive lease by sealed bid of \$100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). *However, no bid will be accepted for less than fair market value as determined by the authorized officer.* A company or individual is limited to *one sealed bid*. If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

DATES: The lease sale will be held in the State of Utah, Division of Community and Economic Development Conference Room, 324 South State Street, Suite 501, Salt Lake City, Utah, at 1:00 p.m. on Wednesday, July 19, 1995. At that time, the sealed bids will be opened and read. No bids received after 10:00 a.m., Wednesday, July 19, 1995, will be considered.

COAL OFFERED: The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Carbon County, Utah, approximately 9 miles northeast of Wellington, Utah:

- T. 13 S., R. 11 E., SLM, Utah
 Sec. 1, lots 1-7, lot 8 (for all coal except the Rock Canyon Bed)
 Sec. 10, E2E2;
 Sec. 11, all;
 Sec. 12, W2W2;
 Sec. 13, W2NW, SENW, SW;
 Sec. 14, N2, N2S2, SESE;
 Sec. 15, NENE;
 Sec. 23, N2NENE;
 Sec. 24, N2N2NW.

Containing 2,177.32 acres

Two economically recoverable coal beds, the Gilson Seam and the Rock Canyon Seam, are found in this tract. The seams average between 6.8 to 7.8 feet in thickness. The tract contains an estimated 12,700,000 tons of recoverable high volatile C bituminous coal. The estimated coal quality using weighted average of samples on an as-received basis is:

12,333 to 12,434	.....	BTU/lb.;
3.4 to 4.1	.....	Percent moisture;
0.6	.....	Percent sulphur;
10.0 to 10.7	.....	Percent ash;
48.6 to 49.4	.....	Percent fixed carbon;
36.8 to 37.4	.....	Percent volatile matter.

RENTAL AND ROYALTY: A lease issued as a result of this offering will provide for payment of an annual rate of \$3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

NOTICE OF AVAILABILITY: Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease available by mail at the Bureau of Land Management, Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111-2303 or in the Public Room (Room 400). All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

SUPPLEMENTARY INFORMATION: The unleased coal in this tract is included in Proposed Legislation cited as the "Utah Public Lands Management Act of 1995" concerning the Designation of BLM Wilderness Land in Utah. Provisions of the Proposed Act call for the exchange of State and Federal Lands. The State of Utah has designated the unleased coal tract (Alkali Creek) for acquisition by the State. Consummation of the exchange under the Proposed Act may, in the future, allow for the State of Utah to succeed to some or all of the United States interest in this tract.

Douglas M. Koza,

Acting State Director.

[FR Doc. 95-15274 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-940-5700-00; CACA 35718]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 1,236.31 acres of National Forest System land in Mariposa County to protect the Jordan Creek Bower Cave Special Interest Area. This notice closes the land for up to 2 years from mining. The land will remain open to mineral leasing and the Materials Act of 1947.

DATES: Comments and requests for a public meeting must be received by September 20, 1995.

ADDRESSES: State Director, BLM (CA-931), Federal Building, Room E-2845, 2800 Cottage Way, Sacramento, California 95825-1889.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 916-979-2858, or Bill Ferrell, Stanislaus National Forest, Forest Service, 209-532-3671, extension 320.

SUPPLEMENTARY INFORMATION: On April 10, 1995, the Stanislaus National Forest, Forest Service, filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws (30 U.S.C. Ch. 2), subject to valid existing rights:

Mount Diablo Meridian

- T. 2 S., R. 17 E.,
 Sec. 13, SW¹/₄, S¹/₂SE¹/₄SW¹/₄, E¹/₂SE¹/₄, S¹/₂NE¹/₄, SE¹/₄SE¹/₄NW¹/₄;
 Sec. 14, NW¹/₄SW¹/₄, NE¹/₄SW¹/₄SW¹/₄, N¹/₂SE¹/₄SW¹/₄, SE¹/₄SE¹/₄SW¹/₄, S¹/₂SE¹/₄;
 Sec. 15, SE¹/₄NE¹/₄, SW¹/₄NE¹/₄NE¹/₄, SE¹/₄NW¹/₄NE¹/₄, E¹/₂SW¹/₄NE¹/₄, NE¹/₄NE¹/₄SE¹/₄;
 Sec. 23, lots 1 and 5, and a portion of MC 2108;
 Sec. 24, N¹/₂ of lot 1, N¹/₂NE¹/₄, NE¹/₄NW¹/₄, E¹/₂SW¹/₄SW¹/₄, SE¹/₄SE¹/₄, E¹/₂NE¹/₄SE¹/₄, E¹/₂SE¹/₄NE¹/₄, NW¹/₄SE¹/₄NE¹/₄;
 T. 2 S., R. 18 E.,
 Sec. 18, lot 3;
 Sec. 19, lots 1-4 inclusive, S¹/₂NE¹/₄SW¹/₄, N¹/₂SW¹/₄SE¹/₄, S¹/₂NW¹/₄SE¹/₄, SE¹/₄SE¹/₄;
 Sec. 20, S¹/₂SW¹/₄SW¹/₄; and
 Sec. 29, N¹/₂NW¹/₄, NW¹/₄NE¹/₄, N¹/₂SE¹/₄NW¹/₄.

The area described contains approximately 1,236.31 acres in Mariposa County.

The purpose of the proposed withdrawal is to protect the Jordan Creek Bower Cave Special Interest Area, which is located approximately nine miles northeast of Coulterville, California.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are those which are compatible with the use of the land by Forest Service.

Dated: June 15, 1995.

John D. Beck,

Acting Chief, Branch of Lands.

[FR Doc. 95-15296 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-40-P

[CO-934-95-4110-03; COC49194]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease COC49194, Rio Blanco County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from February 1, 1995, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of \$5 per acre and 16 $\frac{2}{3}$ percent, respectively. The lessee has paid the required \$500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral

Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective February 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239-3767.

Dated: June 13, 1995.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Lease Management Team.

[FR Doc. 95-15281 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-JB-M

[CA-067-7123-00]

Proposed Update of Off-Road Vehicle Designation of Routes of Travel on Public Land in Eastern San Diego and Imperial Counties, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of Open, Closed and Limited Routes of Travel.

SUMMARY: Notice is hereby given that the Route of Travel Designations on Public Land in Eastern San Diego and Imperial Counties are being updated in accordance with title 43 Code of Federal Regulations, section 8342.2. These designations are being updated as part of the California Desert Conservation Area Plan and the Eastern San Diego Management Framework Plan. The update will include routes missed on previous designations and redesignation of some existing routes. The environmental assessment, Maps and Proposed Vehicle Route Designation Records for each route may be reviewed Monday through Friday at the following locations beginning June 26, 1995 through September 8, 1995: El Centro Resource Area Office, 1661 South 4th Street, El Centro, CA., 7:45 am-4:30 pm; California Desert District Office, 6221 Box Springs Blvd., Riverside, CA, 7:45 am-4:30 pm; Jay's Maintenance Service, 3550 Foothill Blvd., La Crescenta, CA., 9 am-6 pm; and Fibertech Manufacturing, 10809 Prospect Ave., Santee, CA., 9 am-6 pm (9 am-4 pm Saturdays).

DATES: For Public Meetings and Comments: A 60-day public review period has been established for review of the proposed route designations. Written comments must be filed no later than September 8, 1995. For those who still have questions after reviewing the Environmental Assessment and appropriate maps and Designation Records, four public meetings will be

held to answer specific questions. Each meeting is scheduled 7 to 10 pm. On August 28, 1995 at the El Cajon Community Center 195 E. Douglas Ave., El Cajon, CA, on August 29, 1995 at Jay's Maintenance Service, 3550 Foothill Blvd., La Crescenta, CA., on August 30, 1995 at the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA, and on August 31, 1995 at the El Centro Resource Area Office, 1661 South 4th St., El Centro, CA.

ADDRESSES: Written comments must be filed no later than September 8, 1995, and should be addressed to: Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243.

FOR ADDITIONAL INFORMATION CONTACT: Robert Bower, Outdoor Recreation Planner, Bureau of Land Management, El Centro Resource Area, 1661 South 4th Street, El Centro, California, 92243.

SUPPLEMENTARY INFORMATION: Since most desert visitors use motorized vehicles to engage in desert activities, a suitable vehicle transportation network is crucial to their needs. Access for desert use and enjoyment needs to be provided while at the same time natural resources are protected. Access outside of motorized vehicle "open" areas is managed through the Vehicle Route Designation Process. This was initiated on adoption of the California Desert Conservation Area Plan and is described in the Motorized Vehicle Access Element. The El Centro Resource Area is updating its vehicle designations for Public Lands in Eastern San Diego County and in Imperial County those Public Lands west of a line along the Chocolate Mountains Aerial Gunnery Range and the east side of the Imperial Sand Dunes.

Dated: June 15, 1995.

G. Ben Koski,

Area Manager.

[FR Doc. 95-15275 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-40-P

Fish and Wildlife Service

Endangered and Threatened Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; Endangered and Threatened Species Permits.

SUMMARY: The Southeastern Regional Office of the Fish and Wildlife Service (Service) is providing notice of issued permits which incidentally take threatened and endangered species pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act)

(16 U.S.C. 1531-1536) and the Service's implementing regulations governing listed fish, wildlife, and plant permits (50 CFR Parts 13 and 17).

Issuance of these permits, as required by the Act, was based on findings that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of the permit, and; (3) are consistent with the purposes and policies set forth in Section 2 of the Act. Each permit issued was also found in compliance with and are subject to Parts 13 and 17 of Title 50 CFR, the Service's regulations governing listed species permits.

ADDRESSES: Specific applications of incidental taking, the mandatory Habitat Conservation Plan (HCP), the authorizing permit, and supporting documentation are available for review by interested persons (by appointment during regular business hours) at the Service's Southeast Regional Office, Atlanta, Georgia: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 210, Atlanta, Georgia 30345.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch at the address noted above, telephone: 404/679-7110.

SUPPLEMENTARY INFORMATION: The following is a listing of issued permits. Each entry identifies permit number, the Applicant's name, the species for which incidental taking was sought, the location of the activity, and the date the permit was issued.

Permit Number: PRT-790906.
Applicant: Mr. Welton Tapper.
Species: Florida scrub jay.
Project Location: Brevard County, Florida.

Date Issued: July 19, 1994.

Permit Number: PRT-792144.
Applicant: O.C. Mendes (Balmoral).
Species: Florida scrub jay.
Project Location: Brevard County, Florida.

Date Issued: August 10, 1994.

Permit Number: PRT-794539.
Applicant: Gen Real Estate and Management.

Species: Florida scrub jay.
Project Location: Brevard County, Florida.

Date Issued: October 27, 1994.

Permit Number: PRT-795455.
Applicant: Ms. Sarah Bradley.
Species: Red Hills salamander.
Project Location: Monroe County, Alabama.

Date Issued: December 2, 1994.

Permit Number: PRT-796769.
Applicant: Stallworth Preserve.
Species: Choctawhatchee beach mouse.

Project Location: Walton County, Florida.

Date Issued: December 21, 1994.

Permit Number: PRT-795856.

Applicant: The Cavalear Companies (Cloisters).

Species: Florida scrub jay.

Project Location: Brevard County, Florida.

Date Issued: March 28, 1995.

Permit Number: PRT-798839.

Applicant: Fish and Wildlife Service's Red-cockaded Woodpecker Coordinator, (Safe Harbor HCP).

Species: Red-cockaded woodpecker.

Project Location: Sandhills Region, North Carolina.

Date Issued: April 17, 1995.

Permit Number: PRT-797979.

Applicant: Mr. D. Gregory Luce.

Species: Alabama beach mouse.

Project Location: Baldwin County, Alabama.

Date Issued: April 25, 1995.

Permit Number: PRT-798698.

Applicant: RNR Properties, Ltd.

Species: Florida scrub jay.

Project Location: Brevard County, Florida.

Date Issued: May 3, 1995.

Permit Number: PRT-799977.

Applicant: Forte Macaulay

Development Company.

Species: Florida scrub jay.

Project Location: Brevard County, Florida.

Date Issued: May 16, 1995.

Permit Number: PRT-798697.

Applicant: Mr. Robert Farr.

Species: Alabama beach mouse.

Project Location: Baldwin County, Alabama.

Date Issued: May 24, 1995.

Dated: June 15, 1995.

Jerome M. Butler,

Acting Regional Director.

[FR Doc. 95-15277 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-55-P

Finding of No Significant Impact for an Incidental Take Permit for the Incidental Take of the Golden-cheeked Warbler During Construction of Treetops Residential Development in Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessment/Habitat Conservation Plan for the issuance of a Section 10(a)(1)(B) permit for the incidental take of the Federally endangered golden-cheeked warbler

(*Dendroica chrysoparia*) during the construction and operation of the Treetops residential development in Travis County, Texas.

Proposed Action

The proposed action is the issuance of a permit under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden-cheeked warbler during construction of the multi-family housing development.

The Applicant (J.P.I. Texas Development, Inc.) plans to construct a multi-family housing development southwest of the Intersection of Capital of Texas Highway (SH360) and Spicewood Springs Road, 7.5 miles N/NE of Austin, Travis County, Texas.

The proposed development will comply with all local, State, and Federal environmental regulations addressing environmental impacts associated with this type of development. A conservation plan has been developed as mitigation for the incidental take of golden-cheeked warblers and its habitat. This plan includes the following features: clearing and construction activities will be conducted outside of the warbler's breeding season; purchasing and dedication (to a conservation entity approved by the U.S. Fish and Wildlife Service) of 71 acres of occupied warbler habitat will be accomplished prior to initiation of development activity; planned undeveloped areas of the property will be maintain in their natural conditions; minimization or avoidance of clearing within the canyon habitats on the development sites, particularly the canyon habitat along Bull Creek that warblers are likely to utilize; force mains will be used to enable the proposed development to place all wastewater lines within road rights-of-way, thereby eliminating the need for gravity-fed mains which would necessitate the disturbance of warbler habitat in adjacent drainages; and follow-up monitoring of golden-cheeked warbler territories onsite will be conducted for one or more seasons as needed, following completion of the project to determine the affects of the development. Results will be reported to the U.S. Fish and Wildlife Service.

Details of the mitigation are provided in the Treetops Environmental Assessment/Habitat Conservation Plan. These conservation plan actions ensure that the criteria established for issuance of an incidental take permits will be fully satisfied.

Alternatives Considered

1. No action,
2. Proposed action,

3. Alternative project designs,
4. Alternate location, and
5. Wait for issuance of a regional Section 10(a)(1)(B) permit.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plans, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment with the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of Environmental Impact Statements on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permit for the construction of multi-family housing in Travis County, Texas.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95-15297 Filed 6-21-95; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32715]

Cen-Tex Rail Link, Ltd.¹—Trackage Rights Exemption—Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company²

Burlington Northern Railroad Company (BN) and The Atchison, Topeka and Santa Fe Railway Company (ATSF) have agreed to grant non-

¹ Cen-Tex is under common control and management with South Orient Railroad Company, Ltd. (SORC). A continuance in control transaction was exempted by the Commission in *Joel T. Williams, III, Roy C. Coffee, Jr., Rafael Fernandez-MacGregor, and Bristol Investment Co., Inc.—Continuance in Control Exemption—Cen-Tex Rail Link, Ltd. and South Orient Railroad Company, Ltd.*, Finance Docket No. 32478 (ICC served Aug. 16, 1994).

² Cen-Tex was a previous participant in a pending proceeding in *Burlington Northern Inc. and Burlington Northern Railroad Company—Control and Merger—Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company*, Finance Docket No. 32549. On April 10, 1995, Cen-Tex and SORC filed a petition pursuant to 49 CFR 1180.4(f), seeking a waiver or clarification of certain railroad consolidation procedures to facilitate the preparation of a responsive application that Cen-Tex and SORC intended to file. The petition was granted by decision served April 18, 1995, but Cen-Tex and SORC did not file a responsive application. In its notice of exemption, Cen-Tex states that, by not filing any responsive application, the class exemption procedure at 49 CFR 1180.2(d)(7) is available for the proposed trackage rights. Cen-Tex also states that copies of the trackage rights agreements in this proceeding will be submitted to the Commission in the above pending proceeding.

exclusive overhead trackage rights to Cen-Tex Rail Link, Ltd. (Cen-Tex), as follows: (1) over BN's line of railroad from milepost 0.0 on BN's Wichita Falls Subdivision near Tower 55 in Fort Worth, TX to milepost 5.1 on BN's Wichita Falls Subdivision near Tower 60 in Fort Worth, a distance of approximately 5.1 miles (including BN's Race Track from milepost 2.2 on the preceding segment to the end of track at the connection point with the Missouri Pacific Railroad Company, a further distance of approximately 0.2 miles); and (2) over ATSF's line of railroad from approximately milepost 1.29 on ATSF's Dublin Subdivision near Belt Junction in Fort Worth, to approximately milepost 349.97 on ATSF's Fort Worth Subdivision near Tower 60 in Fort Worth, a distance of approximately 9.0 miles. The total distance of the trackage involved is approximately 14.3 miles. The proposed transaction will allow Cen-Tex to reach and directly interchange traffic with other railroads in the Fort Worth area (including Dallas Area Rapid Transit, Fort Worth & Western Railroad Company, The Kansas City Southern Railway Company, Southern Pacific Transportation Company/St. Louis Southwestern Railway Company, and Missouri Pacific Railroad Company). The trackage rights were scheduled to become effective on or after June 9, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Thomas W. Rissman, 6 West Hubbard St., Suite 500, Chicago, IL 60610.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: June 16, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 95-15310 Filed 6-21-95; 8:45 am]

BILLING CODE 7035-01-P

[Ex Parte No. 55 (Sub-No. 92)]

Compliance Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission is implementing, with modification, its previously-announced compliance policy (57 FR 58824, December 11, 1992) regarding any application for new motor, water, broker, and freight forwarder operating authority that was granted prior to December 10, 1992, and that is still pending because applicant has not yet complied with applicable insurance or surety bond, tariff, and process agent requirements. With respect to those still-pending applications, applicants must satisfy compliance requirements currently in effect within 60 days of the effective date of this notice or the application will be dismissed for want of prosecution. Implementation of the Commission's compliance policy through this Notice and Notice in the *Interstate Commerce Commission Register* is necessitated because of the large number of still-pending applications (approximately 15,000) that accumulated during the years when Commission policy did not require compliance within a specified period. This action is intended to alleviate the burden on Commission resources associated with maintaining these still-pending application files.

EFFECTIVE DATE: This Notice is effective July 22, 1995.

FOR FURTHER INFORMATION CONTACT: The Office of Public Assistance, 202-927-7597. [TDD for the hearing impaired: 202-927-5721.]

SUPPLEMENTARY INFORMATION: In *Compliance Procedures*, 9 I.C.C. 2d 207 (1992), served December 10, 1992, the Commission reinstated its policy of imposing a compliance deadline on applicants seeking new operating authority. As a result of that policy statement, applicants were required to file with the Commission applicable insurance or surety bond, tariff, and process agent documents within 180 days of a grant of authority, or the application would be dismissed.

That policy statement also established procedures for disposing of the thousands of applications that were granted but still pending on December 10, 1992, due to non-compliance. As to those applicants that were granted authority but that did not effect compliance within 180 days of their grant of authority, the Commission would issue a decision effective in 60

days tentatively dismissing the application for want of prosecution. The application would not be dismissed if the applicant achieved compliance within 60 days. We will modify our procedures and not issue individual decisions because the Commission does not have the staff to process such a large number of decisions and, because of the age of some of the applications, the service list addresses may no longer be accurate.

Accordingly, all applicants for new motor, water, broker, and freight forwarder operating authority granted before December 10, 1992, that are still not in compliance will have 60 days from the effective date of this Notice to achieve compliance. If they do not achieve compliance within 60 days, their applications will be dismissed for want of prosecution.

This Notice will be published in the **Federal Register** and the *Interstate Commerce Commission Register* to afford the broadest notice feasible. The Notice in the *Interstate Commerce Commission Register* will list all applications affected by this Notice. In light of the volume and age of the still-pending applications, the Commission will not issue an individual decision as to each application affected by this Notice. Rather, if a carrier-applicant identified in the Notice published in the *Interstate Commerce Commission Register* does not timely achieve compliance, its application will stand dismissed for want of prosecution.

To purchase a copy of the full *Interstate Commerce Commission Register Notice*, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: 202-289-4357/4359. [Assistance for the hearing impaired is available through TDD services 202-927-5721.]

Authority: 5 U.S.C. 551(a), 553 and 559; 16 U.S.C. 1456; and 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, 10928, and 11102.

Decided: June 8, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95-15326 Filed 6-21-95; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1726-95]

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) and Scoping Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY:

Proposed Action

The United States Department of Justice, Immigration and Naturalization Service (INS) has determined that a Federal Detention Center (FDC) is needed in its system.

The Notice of Intent is required to prepare a Draft Environmental Impact Statement (DEIS) for the construction of a combined INS and U.S. Marshalls Service (USMS) FDC near Batavia, Genesee County, New York or Albion, Orleans County, New York.

The INS has preliminarily evaluated several sites in both Genesee and Orleans Counties, and they will be the focus of the DEIS.

The INS proposes to build and operate a FDC in conjunction with the USMS. The FDC will house individuals within the jurisdiction of the INS and/or USMS while awaiting trial, facing deportation proceedings, awaiting sentencing or having similar business before the courts. The total population of the facility will be 250; 150 beds allocated for USMS and 10 beds for INS.

The Process

In the process of evaluating the site, several aspects will receive detailed examination including: utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources and socio-economic impacts.

Alternatives

In developing the DEIS, the options of "no action" and "alternatives sites" for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be opportunities for public involvement in order to determine the issues to be examined. Scoping meetings will be held in two locations. One meeting will be in Batavia, Genesee County, New York and the other will be in Albion, Orleans County, New York. The specific time and place will be announced at a later time. Consult with

the local newspapers respectively or with the Point of Contact. The meeting will be publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, public information meetings will be held by representatives of the INS with interested citizens, officials and community leaders.

DEIS Preparation

Public notice will be given in the Federal Register concerning the availability of the DEIS for public review and comment.

Address

Questions concerning the proposed action and the DEIS may be directed to the Point of Contact:

John W. Clarke, Director—Facilities and Space Management, U.S. Immigration and Naturalization Service, Administrative Center Burlington, 70 Kimball Avenue, South Burlington, Vermont 05403-6813, Telephone: (802) 660-1154

or

Victoria L. Kingslien—Chief, Planning Branch, U.S. Immigration and Naturalization Service, Headquarters Facilities Division, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 616-7575.

Dated: June 15, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-15302 Filed 6-21-95; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Civil & Mechanical Systems (#1205).

Date and Time: June 13 & 14, 1995, 8 a.m. to 5 p.m.

Place: NSF, Rm. 365, 4201 Wilson Blvd., Arlington, VA 22230.

Contact: Dr. Clifford Astill, Program Director, Siting and Geotechnical Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 545. Telephone: 703-306-1361.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning the Siting and Geotechnical Systems program proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division of Civil and Mechanical systems as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15314 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Civil and Mechanical Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Civil and Mechanical Systems (#1205).

Date and Time: July 12 & 13, 1995, 8:30 a.m. to 5 p.m.

Place: Room 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ken P. Chong, Program Director Structural Systems and Construction Processes, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1361.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15316 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Civil and Mechanical Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Civil and Mechanical Systems (#1205).

Date and Time: July 12 & 13, 1995, 8:30 a.m. to 5 p.m.

Place: 5th Floor Conference Rooms, Holiday Inn, 480 King Street, Alexandria, VA 22314.

Type of Meeting: Closed.

Contact Person: Priscilla P. Nelson, Program Director Geomechanical, Geotechnical and Geo-environmental, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306-1361.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15317 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Design, Manufacture and Industrial Innovation; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Design, Manufacture and Industrial Innovation (#1194).

Date and Time: July 13, 1995, 8:30 am to 5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 565.

Type of Meeting: Closed.

Contact Person: Mr. Charles R. Hauer, Program Manager, Small Business Innovation Research, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1391.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Small Business Innovation Research (SBIR) proposals as part of the selection for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15315 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Elementary, Secondary and Informed Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name of Committee: Special Emphasis Panel in Elementary, Secondary and Informal Education (#59)

Date and Time: Monday, July 10, 1995; 8:30 a.m. to 5 p.m., Wednesday, July 12, 1995; 8:30 a.m. to 5 p.m.

Place: Arlington Renaissance Hotel, North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Julia V. Clark, Program Director, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1616.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15320 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Engineering Education and Centers; Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel Engineering Education and Centers. (#173).

Date/time: July 10-11, 1995, 8 a.m.-5:30 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 375.

Type of Meeting: Closed.

Contact Person: Mary Poats, Program Manager, Engineering Education and Centers Division, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 585.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Combined Research-Curriculum Development Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15319 Filed 6-21-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (DMR).

Dates, and Times: July 12, 1995, 12 p.m.-8 p.m., July 13, 1995, 8 a.m.-12 p.m.

Place: Room 204, Kent State University Student Center, Kent, OH.

Type of Meeting: Closed.

Contact Person: Dr. David L. Nelson, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd., Arlington, VA, 22230. Telephone (703) 306-1838.

Purpose of Meeting: To provide advice and recommendations concerning support for the Center for Advanced Liquid Crystal Optical Materials (ALCOM), Science and Technology Center, Kent State University.

Agenda: Presentation and evaluation of progress.

Reason for Closing: The proposal being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 19, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-15318 Filed 6-21-95; 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: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information and collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission: Revision.
2. The title of the information collection: NRC Form 4, "Cumulative Occupational Exposure History" NRC Form 5, "Occupational Exposure Record for a Monitoring Period."

3. The form number, if applicable: NRC Forms 4 and 5.

4. How often the collection is required: NRC Form 4 is generated for each individual who may enter the licensee's restricted or controlled area and who is likely to receive, in one year, an occupational dose requiring monitoring as described § 20.1502. It is maintained by the licensee until the Commission terminates the license. It is not submitted to the NRC. NRC Form 5 is prepared by the licensee and transmitted to the NRC annually.

5. Who will be required to report: NRC licensees.

6. An estimate of the number of responses per licensee: NRC Form 4—6/year. NRC Form 5—60/year.

7. An estimate of the total number of hours needed annually to complete the requirement or request: NRC Form 4—8,052 or an average of 1.2 hours per licensee. NRC Form 5—132,858 or an average of 19 hours per licensee for recordkeeping requirements; 6,710 or an average of 1 hour per licensee for reporting requirements; 139,568 total hours annually.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC Form 4 is used to record the mandatory summary of the previous occupational radiation dose to individuals to ensure that dose does not exceed regulatory limits. NRC Form 5 is used to record and report the mandatory results of individual monitoring for occupational dose from radiation during a one-year period to ensure regulatory compliance with annual dose limits.

Copies of the submittal may be inspected or obtained for a fee from the

NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20037.

Comments and questions should be directed to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs, (3150-0005 and 3150-0006), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415-7233.

Dated at Rockville, MD, this 16th day of June, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95-15290 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498 and 499]

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, (South Texas Project, Units 1 and 2); Exemption

I

Houston Lighting & Power Company, (the licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80, which authorizes operation of the South Texas Project, Units 1 and 2 (STP). The operating license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facilities consists of two pressurized water reactors at the licensee's site in Matagorda County, Texas.

II

Title 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," paragraph (a), in part, states that "The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety."

10 CFR 73.55(d), "Access Requirements," paragraph (1), specifies that "The licensee shall control all points of personnel and vehicle access into a protected area." 10 CFR

73.55(d)(5) requires that "A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort." 10 CFR 73.55(d)(5) also states that an individual not employed by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual "receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area * * *"

The licensee proposed to implement an alternative unescorted access control system which would eliminate the need to issue and retrieve badges at each entrance/exit location and would allow all individuals with unescorted access to keep their badge with them when departing the site.

An exemption from 10 CFR 73.55(d)(5) is required to allow contractors who have unescorted access to take their badges offsite instead of returning them when exiting the site. By letter dated March 27, 1995, the licensee requested an exemption from certain requirements of 10 CFR 73.55(d)(5) for this purpose.

III

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application of any interested person on upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Pursuant to 10 CFR 73.55, the Commission may authorize a licensee to provide alternative measures for protection against radiological sabotage provided the licensee demonstrates that the alternative measures have "the same high assurance objective" and meet "the general performance requirements" of the regulation, and "the overall level of system performance provides protection against radiological sabotage equivalent" to that which would be provided by the regulation.

At STP, unescorted access into protected areas is controlled through the use of a photograph on a combination badge and keycard (hereafter referred to as a badge). The security officers at each entrance station use the photograph on the badge to visually identify the individual requesting access. The badges for both licensee employees and contractor personnel, who have been granted unescorted access, are issued upon entrance at each entrance/exit location and are returned upon exit. The badges are stored and are retrievable at

each entrance/exit location. In accordance with 10 CFR 73.55(d)(5), contractor individuals are not allowed to take badges offsite. In accordance with the plants' physical security plans, neither licensee employees nor contractors are allowed to take badges offsite.

Under the proposed system, each individual who is authorized for unescorted entry into protected areas would have the physical characteristics of their hand (hand geometry) registered with their badge number in the access control system. When an individual enters the badge into the card reader and places the hand on the measuring surface, the system would record the individual's hand image. The unique characteristics of the extracted hand image would be compared with the previously stored template in the access control system to verify authorization for entry. Individuals, including licensee employees and contractors, would be allowed to keep their badge with them when they depart the site and thus eliminate the process to issue, retrieve and store badges at the entrance stations to the plant. Badges do not carry any encoded information other than a unique identification number.

All other access processes, including search function capability, would remain the same. This system would not be used for persons requiring escorted access, i.e., visitors.

Based on a Sandia report entitled, "A Performance Evaluation of Biometric Identification Devices" (SAND91-0276 UC-906 Unlimited Release, Printed June 1991), and on its experience with the current photo-identification system, the licensee concludes that the biometric access control system will provide the same high assurance objective regarding onsite physical protection that is achieved by the current system. The biometric system is now in use at other NRC-licensed nuclear generating facilities. The licensee will implement a process for testing the proposed system to ensure a continued overall level of performance equivalent to that specified in the regulation. The Physical Security Plans for STP will be revised to include implementation and testing of the hand geometry access control system and to allow licensee employees and contractors to take their badges offsite.

The licensee will control all points of personnel access into a protected area under the observation of security personnel through the use of a badge and verification of hand geometry. A numbered picture badge identification system will continue to be used, once inside the protected area, for all

individuals who are authorized unescorted access to protected areas. Badges will continue to be displayed by all individuals while inside the protected area.

IV

Since both the badge and hand geometry would be necessary for access into the protected area, the proposed system would provide for a positive verification process. In addition, potential loss of a badge by an individual, as a result of taking the badge offsite, would not enable an unauthorized entry into protected areas.

For the foregoing reasons, pursuant to 10 CFR 73.55, the NRC staff has determined that the proposed alternative measures for protection against radiological sabotage meet "the same high assurance objective," and "the general performance requirements" of the regulation and that "the overall level of system performance provides protection against radiological sabotage equivalent" to that which would be provided by the regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, as long as the licensee uses the hand geometry access control system, the Commission hereby grants Houston Lighting and Power Company an exemption from these requirements of 10 CFR 73.55(d)(5) relating to the returning of picture badges upon exit from the protected area such that individuals not employed by the licensee, i.e., contractors, who are authorized unescorted access into the protected area, can take their badges offsite.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 30117). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 14th day of June 1995.

For the Nuclear Regulatory Commission.

John N. Hannon,

Acting Deputy Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-15292 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-414]

Duke Power Co., et al; Catawba Nuclear Station, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR part 50, appendix J, Paragraph III.D.1.(a), Type A Tests, to Duke Power Company, et al. (the licensee), for operation of the Catawba Nuclear Station, Unit No. 2, located in York County, South Carolina, in accordance with Facility Operating License No. NFP-35.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application dated May 18, 1995, as supplemented by letter dated May 31, 1995. The proposed action would exempt the licensee from the requirements of 10 CFR part 50, appendix J, Paragraph III.D.1.(a), to the extent that a one-time schedular extension would permit rescheduling the third containment integrated leak rate test (ILRT) in the first 10-year service period from the end-of-cycle 7 outage until the end-of-cycle 8 outage. The requested exemption would also allow the decoupling of this third test from the endpoint of the first 10-year inservice inspection.

The Need for the Proposed Action

The current containment integrated leakage rate requirement for Catawba, Unit 2, pursuant to Appendix J, is that, after the preoperational leak rate preoperational leak rate test, a set of three Type A tests must be performed at approximately equal intervals during each 10-year period. Also, the third test of each set must be conducted when the plant is shut down for the 10-year plant inservice inspection. This is reflected in the Catawba Technical Specifications (TS) as a testing interval of once each 40 months plus or minus 10 months, for a frequency of three times in a 120-month period. To date, for Catawba Unit 2, the preoperational and the first two periodic ILRTs have been conducted. The most recent ILRT was conducted in February 1993, approximately 28 months ago. Thus, in accordance with appendix J and the current TS, an ILRT would have to be conducted during the refueling outage beginning in October 1995 (the end-of-cycle (EOC) 7 outage).

The licensee has requested an exemption from Appendix J and a corresponding change to the TS that would allow a one-time change to the interval for the Unit 2 ILRT from 40 plus or minus 10 months to less than or equal to 70 months. This would allow the EOC-7 ILRT to be rescheduled for EOC-8. Therefore, the need for the licensee's proposed action is to allow a longer interval between the Catawba Unit 2 second and third periodic Type A ILRTs, which will result in a cost savings to the licensee.

Environmental Impacts of the Proposed Action

The proposed one-time exemption would not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at the Catawba Nuclear Station, Unit No. 2. The licensee has provided an acceptable basis for concluding that the proposed one-time extension of the Type A test interval would maintain the containment leakage rates within acceptable limits. Accordingly, the Commission has concluded that the one-time extension does not result in a significant increase in the amounts of any effluents that may be released nor does it result in a significant increase in individual or cumulative occupational radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption only involves Type A testing on the containment. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for exemption. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Related to the Operation of Catawba Nuclear Station Units 1 and 2," dated January 1983.

Agencies and Persons Consulted

In accordance with its stated policy, on June 6, 1995, the NRC staff consulted with the South Carolina State official, Mr. M.K. Batavia, PE, Chief of the Bureau of Radiological Health, Department of Health and Environmental controls, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated May 18, 1995, as supplemented by letter dated May 31, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, MD this 15th day of June 1995.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-15289 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-M

Availability of Draft Application Format and Content Guidance and Review Plan and Acceptance Criteria for Non-Power Reactors

The U.S. Nuclear Regulatory Commission (NRC) is in the process of developing for Non-Power Reactors (NPRs) a "Format and Content for Applications for the Licensing of Non-Power Reactors" (F&C) and a "Standard Review Plan and Acceptance Criteria for Applications for the Licensing of Non-Power Reactors" (SRP). The NRC has made available a draft of Chapter 15, "Financial Qualifications," of the F&C and SRP documents for comment. Other

draft chapters will be made available for comment as they are completed.

Copies of these chapters have been placed in the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555. Single copies of these documents may be requested in writing from Alexander Adams, Jr., Senior Project Manager, U.S. Nuclear Regulatory Commission, MS: 0-11-B-20, Washington, DC 20555. Comments on this chapter should be sent by Sept. 15, 1995, to the Director, Non-Power Reactors and Decommissioning Project Directorate at the above address.

Dated at Rockville, MD, this 15th day of June 1995.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95-15291 Filed 6-21-95; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606-0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on May 30, 1995 (60 FR 28183). Individual authorities established or revoked under Schedules A and B and established under Schedule C between May 1, 1995 and May 31, 1995, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked in May 1995.

Schedule B

No Schedule B authorities were established or revoked in May 1995.

Schedule C

The following Schedule C positions were approved in May 1995.

Department of Agriculture

Special Assistant to the Secretary of Agriculture. Effective May 16, 1995.

Confidential Assistant to the Secretary of Agriculture. Effective May 16, 1995.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective May 17, 1995.

Confidential Assistant to the Executive Assistant to the Secretary. Effective May 19, 1995.

Special Assistant to the Secretary of Agriculture. Effective May 26, 1995.

Confidential Assistant to the Administrator, Rural Electrification Administration. Effective May 26, 1995.

Department of Commerce

Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration. Effective May 1, 1995.

Confidential Assistant to the Director, Office of Business Liaison. Effective May 10, 1995.

Department of Defense

Special Assistant for Policy Planning and Analysis to the Head, Plans and Policy Group. Effective May 19, 1995.

Department of Education

Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education. Effective May 25, 1995.

Department of Housing and Urban Development

Deputy Assistant Secretary for Policy Development to the Assistant Secretary for Policy Development and Research. Effective May 9, 1995.

Special Assistant to the Assistant Secretary for Public Affairs. Effective May 16, 1995.

Special Assistant/Director of Scheduling to the Secretary. Effective May 25, 1995.

Department of the Interior

Special Assistant to the Deputy Assistant Secretary, Indian Affairs. Effective May 17, 1995.

Department of Justice

Director, Special Projects to the Director, Office of Public Affairs. Effective May 19, 1995.

Department of Labor

Director of Scheduling and Advance to the Chief of Staff. Effective May 8, 1995.

Staff Assistant to the Chief of Staff. Effective May 8, 1995.

Staff Assistant to the Deputy Under Secretary for International Labor Affairs. Effective May 8, 1995.

Special Assistant to the Counselor to the Secretary. Effective May 19, 1995.

Secretary's Representative to the Associate Director, Office of Intergovernmental Affairs. Effective May 19, 1995.

Special Assistant to the Administrator, Wage and Hour Division. Effective May 26, 1995.

Special Assistant to the Assistant Secretary for Public Affairs. Effective May 30, 1995.

Department of Transportation

Special Assistant to the Director, Bureau of Transportation Statistics. Effective May 1, 1995.

Department of the Treasury

Staff Assistant to the Assistant Secretary (Economic Policy). Effective May 1, 1995.

Senior Advisor to the Under Secretary, International Affairs. Effective May 16, 1995.

Environmental Protection Agency

Confidential Assistant to the Chief of Staff. Effective May 16, 1995.

Federal Trade Commission

Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman. Effective May 8, 1995.

Secretary (Office Automation) to the Director, Bureau of Competition. Effective May 12, 1995.

General Services Administration

Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective May 10, 1995.

Interstate Commerce Commission

Congressional Affairs Assistant to the Congressional Affairs Advisor. May 26, 1995.

Occupational Safety and Health Review Commission

Special Assistant to the Chairman of the Occupational Safety and Health Review Commission. Effective May 17, 1995.

Office of Management and Budget

Confidential Assistant to the Associate Director, Health Personnel. Effective May 16, 1995.

Office of National Drug Control Policy

Director, Public Affairs to the Director, Public and Legislative Affairs. Effective May 16, 1995.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P.218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95-15246 Filed 6-21-95; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Morgan, Cass, Schuyler, and McDonough Counties, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a project in Morgan, Cass, Schuyler, and McDonough Counties, Illinois. The proposed project will extend from the northwestern terminus of the proposed Jacksonville Bypass, in Morgan County to US Route 136, in McDonough County. The proposed project will be designated Federal Air Primary Route 310 (FAP Route 310).

FOR FURTHER INFORMATION CONTACT:

Mr. Walter C. Waidelich, Jr., Design Operations Engineer, Federal Highway Administration, Illinois Division, 3520 Executive Park Drive, Springfield, Illinois 62703, Telephone: (217) 492-4622.

Mr. James L. Easterly, district Engineer, Illinois Department of Transportation (IDOT), 126 East Ash Street, Springfield, Illinois 62704, Telephone: (217) 782-7301.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation, will prepare an Environmental Impact Statement on a proposal to improve US Route 67 with Morgan, Cass, Schuyler, and McDonough Counties. The proposed action involves upgrading approximately 88.5 km (55 miles) of US Route 67 to a four lane, partial access-controlled facility, utilizing both the existing alignment and new alignment, depending on the determination of the best combination to meet project goals. The proposed project will extend from the proposed Jacksonville Bypass in Morgan County on the south to US Route 136 near Macomb in McDonough County on the north.

The need of improving US Route 67 is based on improving access to existing/potential development in the region, transportation demands, safety

considerations, and system continuity for the route. Future economic development in the area is tied to improving transportation networks to major urban areas. Upgrading US Route 67 from Jacksonville to Macomb would provide the opportunity for growth. The proposed action would not only connect major urban areas of St. Louis and the Quad Cities, but would also tie together the population centers within the immediate project area.

Alternatives under consideration include no action and a new four lane, partial access-controlled expressway facility. Several alignment alternatives will be evaluated for the proposed project, including bypasses of Beardstown, Rushville, and Industry. Additionally, studies will evaluate the use of the existing US Route 67 alignment south of Beardstown versus alternative alignments in that area. The proposed expressway would be grade separated at all active railroad tracks and interchanges would be constructed at most marked routes along the way. A new Illinois River crossing would also be required in the Beardstown vicinity.

The scoping process for this project will include meetings, review sessions as appropriate, and coordination with appropriate Federal, State, and local agencies. An initial scoping meeting to discuss the project's impacts and determine the extent of additional agency involvement will be held on June 22, 1995 beginning at 1 p.m. at the Elks Club in Beardstown (205 East 2nd Street). Initial areas of environmental concern identified as being potentially impacted by project alternatives include conversion of agricultural land, cultural resources, wetlands, threatened and endangered species (Federal and State), floodplains, and water quality. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed project are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or suggestions concerning this proposed action and the EIS should be directed to the FHWA or IDOT contact persons at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 12, 1995.

Walter C. Waidelich, Jr.,

Design Operations Engineer, Federal Highway Administration, Illinois Division, Springfield, Illinois.

[FR Doc. 95-15280 Filed 6-21-95; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

International Educational and Cultural Activities Discretionary Grant Program

SUMMARY: The Office of Citizen Exchanges (E/P) of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Public or private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)-1 may apply to develop projects that link their international exchange interests with counterpart institutions/groups in ways supportive of the aims of the Bureau of Education and Cultural Affairs.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87-256, also known as the Fulbright Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . . ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." Programs and projects must conform with Agency requirements and guidelines outlined in the Application Package. USIA projects and programs are subject to the availability of funds.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

ANNOUNCEMENT NAME AND NUMBER: All communications concerning this announcement should refer to the Annual Discretionary Grant Program. The announcement number is E/P-96-

1. Please refer to title and number in all correspondence or telephone calls of USIA.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday, October 6, 1995. Faxed documents will not be accepted, nor will documents postmarked on October 6, 1995, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through October 6, 1995, for projects where activities will begin between January 1, 1996 and December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizens Exchanges, E/PL, Room 216, United States Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, (202) 619-5326, to request detailed application packets which include award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please direct inquiries and correspondence to USIA Program Officer Laverne Johnson, E-Mail {LJohnson@USIA.GOV}

ADDRESSES: Applicants must follow all instructions given in the Application Package and send only complete applications to: U.S. Information Agency, REF: E/P-96-1 Annual Discretionary Grant Competition, Grants Management Division (E/XE), 301-4th Street SW., Room 336, Washington, D.C. 20547.

Applicants must also submit to E/XE the "Executive Summary," "Proposal Narrative," and "Budget" sections of each proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including but not limited to race, gender, religion, geographic location, socio-economic status, and

physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle.

Overview

The office of Citizens Exchanges works with U.S. private sector, non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' social, economic, and political structures, and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: urban planners, jurists, specialized journalists (specialists in economics, business, political analysis, international affairs), business professionals, NGO leaders, environmental specialists, parliamentarians, educators, economists, and other government officials.

Guidelines

Applicants should carefully note the following restrictions/recommendations for proposals in specific geographical areas:

The Newly Independent States: USIA and other agencies of the U.S. government have numerous programs in the countries of the NIS (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan). As such, proposals involving this region will not be accepted under this competition.

Western Europe and Canada (WEU): Priority themes and target countries/regions follow:—Immigration and Multiculturalism: Italy, France, Germany.—Conflict Resolution: Greece/Turkey/Cyprus; Northern Ireland.—Environmental Cooperation and Sustainable Development: Nordic/Baltic region; Western Canada;—School-to-work Transition/Vocational Education: Germany, Scandinavia, Spain.

East Asia and the Pacific (EA): Priority consideration will be given to the following:

(1) *Asean and Other Southeast Asian Countries:* Proposals for a journalism project focusing on investigative reporting, media ethics and the relationship between the media, government and the people. Proposals should be designed for junior to mid-level working journalists, in the print or electronic media, in ASEAN member countries and/or other Southeast Asian countries. Proposals that include two-way exchanges are preferred. It is projected that this subregional project will be conducted in English and

participants must be fluent in English. As the overseas portion of the exchange, a seminar/workshop on the methods and ethics of investigative reporting is suggested. Potential site would be Thailand.

(2) *China:* Rule of law. An exchange of young Chinese legal professionals including practicing lawyers, academics and government officials on issues in civil law focusing on how the rights of ordinary citizens in such fields as consumer protection, environmental protection, and intellectual property rights are protected by a strong legal code which permits civil suits against violators by private individuals or by individuals acting in a private capacity. Participants should observe how the threat of liability suits in the U.S. eases the burden on the state for the enforcement of public policy and provides a check on abuses of the rights of individuals.

(3) *China:* Role of individuals in environmental protection. Exchanges that provide Chinese mid-level central governments and municipal and provincial officials with responsibility for environmental protection, as well as academics and staff in non-governmental environmental organizations, an opportunity to observe how citizens' action groups in the U.S. represent public interest in environmental issues, affect legislation and influence public policy. Participants should observe how citizen organizations in the U.S. can affect the outcome of specific local projects with the potential for environmental degradation. Proposals should reflect previous experience in working with Chinese organizations in the environmental field.

(4) *Korea:* Korean Local Autonomy Project. Proposals to conduct a project for Korean provincial and municipal administrators to observe how U.S. state and local governments function and how the federal, state and local governments interact. Participants should be elected provincial and municipal government officials or high-level appointees to provincial and municipal government positions or a combination of the two. The program should emphasize the degree of autonomy enjoyed by state and local governments within the U.S. federal system.

American Republics (AR): Priority will be given to projects involving Haiti (focusing on democracy building or adult/community-based education), Brazil (focusing on ethics in government or cultural diversity), and the Andean region (focusing on judicial reform). Proposals for projects in the Andean

region should include activities in at least two Andean countries, one of which must be Colombia or Bolivia. (The Andean Region consists of the following countries: Bolivia, Chile, Colombia, Ecuador, Peru, and Venezuela.)

Africa (AF): Preference will be accorded to proposals which include three or four countries in one subregion of Africa (West, East, or Southern Africa), and priority will be given to projects addressing rule of law, print or electronic media development, and conflict resolution. Other themes may be proposed, but the three listed above will receive preference.

North Africa, Near East and South Asia (NEA): Priority will be given to projects involving Pakistan/India (focusing on conflict resolution and economic reform) and the Middle East Peace Process States (focusing on public administration and natural resource management). The Office of Citizen Exchanges strongly encourages the coordination of activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support.

The Office does not support proposals limited to conferences or seminars (i.e., one- to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a larger project in duration and scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas. The themes addressed in exchange programs must be of long-term importance rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including, where applicable, the expected yield of any associated

conference. No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States. Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. The Office of Citizen Exchanges strongly recommends that applicants consult with host country USIS posts *prior* to submitting proposals.

Selection of Participants:

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that programs in support of U.S. internships include letters tentatively committing host institutions to support the internships. In the selection of foreign participants, USIA and USIS posts abroad retain the right to nominate all participants and to accept or deny participants recommended by grantee institutions. However, grantee institutions are often asked by USIA to suggest names of potential participants. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority will be given to foreign participants who have not previously traveled to the United States.

Additional Guidance:

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposals involving more than one country. Pertinent rationale which links countries in multi-country projects should be included in the submission. Single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants will also be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The office of Citizen Exchanges will consider proposals for activities which take place exclusively in other countries when USIS posts are consulted in the

design of the proposed program and in the choice of the most suitable venues for such programs.

5. Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for publications funding, for student and/or teacher/faculty exchanges, for sports and/or sports related programs. Nor does this office provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register**.

For projects that would begin after December 31, 1996, competition details will be announced in the **Federal Register** on or about June 1, 1996. Inquiries concerning technical requirements are welcome prior to submission of applications.

Funding

Although no set funding limit exists, proposals for less than \$135,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to \$60,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. While an all-inclusive budget must be provided with each proposal, separate component budgets are optional. Competition for USIA funding support is keen.

The selection of grantee institutions will depend on program substance, cross-cultural sensitivity, and ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, other institutions, *et al.* will be deemed highly competitive. The Recipient must provide a minimum of 33 percent cost sharing of the total project cost.

Cost Sharing

The Bureau of Educational and Cultural Affairs encourages cost-sharing, which may be in the form of allowable direct or indirect costs. The recipient of an assistance award must maintain written records to support all allowable costs which are claimed as being its contribution to cost participation, as well as costs to be paid by the Federal Government. Such records are subject to audit.

The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A-110, Subpart C(23) "Cost-sharing or Matching," and should be described in the proposal. Cost sharing may be in the form of allowable direct or indirect costs. The Recipient must maintain written records to support all allowable costs which are claimed as being its contribution to cost participation, as well as costs to be paid by the Federal Government. Such records are subject to audit. In the event the Recipient does not provide a minimum of 33 percent cost sharing, the Agency's contribution will be reduced in proportion to the Recipient's contribution. The Recipient's proposal shall include the cost of an audit that: (1) Complies with the requirements of OMB Circular No. A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions; (2) complies with the requirements of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) No. 92-9; and (3) complies with AICPA Codification of Statements on Auditing Standards AU Section 551, "Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents," where applicable. When USIA is the largest direct source of Federal financial assistance—i.e. the cognizant Federal Agency—and indirect costs are charged to Federal grants, a supplemental schedule of indirect cost computation is required.

The audit costs shall be identified separately for: (1) Audit of the basic financial statements, and (2) supplemental reports and schedules required by A-133.

USIA's Office of Inspector General has provided supplemental guidance for conducting A-133 audits and recovery of related audit costs in a separate "Dear Colleague" letter dated January 24, 1995.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.
2. Per Diem. For the U.S. program, organizations have the option of using a flat \$140/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used.

Note: U.S. escorting staff must use the published Federal per diem rates, not the flat rate.

3. Interpreters: If needed, interpreters for the U.S. program are provided by the

U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat \$140/day per diem for each Department of State interpreter, as well as home-program-home air transportation of \$400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance: Participants are entitled to and escorts are reimbursed a one-time cultural allowance of \$150 per person, plus a participant book allowance of \$50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed \$250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which generally should not exceed \$250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed \$5-8 for a lunch and \$14-20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of \$70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package.

Note: The 20 percent limitation of "administrative costs" included in previous announcements does not apply to this RFP.

Please refer to the Application Package for complete budget guidelines.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be

deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the budget and contract offices, as well as the USIA geographic regional office and the USIS post overseas, where appropriate. Proposals may also be reviewed by the USIA's Office of General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for grant award resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on their conformance with the objectives and considerations already stated in this RFP, as well as the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality, substance, precision, and relevance to the Agency mission.

2. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

4. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Value of U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's or project's goal.

7. *Institution Reputation/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and

the demonstrated potential of new applicants.

8. *Follow-on Activities*: Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

9. *Evaluation Plan*: Proposals should provide a plan for a thorough and objective evaluation of the program/project by the grantee institution.

10. *Cost-Effectiveness*: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. *Cost-Sharing*: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

12. *Support of Diversity*: Proposals should demonstrate the recipients' commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation (such as a written statement or account) summarizing past and/or on-going activities and efforts that further the principle of diversity within both their organization and their activities.

Notice

The need of the program may require the award to be reduced, revised, or increased. The terms and conditions published in the RFP are binding and may not be modified by any USIA representative. Explanatory information provided by USIA that contradicts published language will not be binding.

Issuance of the RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by the Congress, allocated, and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about December 8, 1995. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: June 14, 1995.

Dell Pendergrast,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 95-15117 Filed 6-21-95; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 120

Thursday, June 22, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:03 p.m. on Monday, June 19, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency) and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii), of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: June 20, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary

[FR Doc. 95-15497 Filed 6-20-95; 3:41 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 27, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Wednesday, June 28, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Regulations:

MCFL Rulemaking: Explanation and Justification for Express Advocacy Definition and Qualified Nonprofit Corporation Regulations. (Continued from meeting of June 15, 1995)

DATE AND TIME: Thursday, June 29, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinions:

AOR 1995-12

Independent Bankers Association of America by its president, Richard L. Mount.

AOR 1995-15

Beth Taylor (AllisonPAC) Allison Engine Company (continued from meeting of June 15, 1995).

AOR 1995-18

Honorable James A. Leach, Chairman, Committee on Banking and Financial Services, U.S. House of Representatives.

AOR 1995-20

Honorable Tim Roemer, on behalf of Hoosiers for Tim Roemer Committee.

Regulations:

MCFL Rulemaking: Explanation and Justification for Express Advocacy Definition and Qualified Nonprofit Corporation Regulations. (continued from meeting of June 28, 1995).

Administrative Matters:

Status Update on Computer Development Projects (continued from meeting of June 15, 1995).

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer,
Telephone: (202) 219-4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 95-15499 Filed 6-20-95; 3:49 pm]

BILLING CODE 6715-01-M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m., Thursday, June 29, 1995.

PLACE: Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 20006.

STATUS: The entire meeting on Thursday, June 29, 1995 will be open to the public.

MATTERS TO BE CONSIDERED:

- a. FHLBank of Topeka Proposal to Certify Nebraska Investment Finance Authority as a Nonmember Mortgagee
- B. FHLBank Dividend Recommendation for the Second Quarter, 1995
- C. Appointment to the Office of Finance Board of Directors
- D. Approval of AHP Applications—First Round, 1995
- E. Notional Vote Procedures

CONTACT PERSON FOR MORE INFORMATION:

Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

Rita I. Fair,

Managing Director.

[FR Doc. 95-15396 Filed 6-20-95; 10:29 am]

BILLING CODE 6725-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [60 FR 31186, June 13, 1995]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 13, 1995.

CHANGE IN THE MEETING: Additional Item.

The following item was considered at a closed meeting held on Wednesday, June 14, 1995, following the open meeting:

Litigation matter.

Commissioner Wallman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942-7070.

Dated: June 19, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-15424 Filed 6-20-12:31 pm]

BILLING CODE 8010-01-M

**UNITED STATES ENRICHMENT CORPORATION
BOARD OF DIRECTORS**

TIME AND DATE: 8:30 a.m., Tuesday, June 27, 1995.

PLACE: USEC Corporate Headquarters,
6903 Rockledge Drive, Bethesda,
Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation
- Procedural matters

CONTACT PERSON FOR MORE INFORMATION:
Barbara Arnold, 301-564-3354.

Dated: June 19, 1995.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 95-15408 Filed 6-20-95; 11:12 am]

BILLING CODE 8720-01-M

Reader Aids

Federal Register

Vol. 60, No. 120

Thursday, June 22, 1995

INFORMATION AND ASSISTANCE

Federal Register

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